INDIAN EDUCATION OVERSIGHT

HEARING

BEFORE THE

SELECT COMMITTEE ON INDIAN AFFAIRS
UNITED STATES SENATE

NINETY-SEVENTH CONGRESS

SECOND SESSION

ON

OVERSIGHT OF INDIAN EDUCATION

MAY 18 AND 19, 1982
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INDIAN EDUCATION OVERSIGHT

MAY 18, 1982

U.S. SENATE,
SELECT COMMITTEE ON INDIAN AFFAIRS,
Washington, D.C.

The committee met, pursuant to notice, at 10:17 a.m., in room 6226, Dirksen Senate Office Building, Senator William S. Cohen (chairman of the committee) presiding.

Present: Senators Cohen and Melcher.

Staff present: Timothy C. Woodcock, staff director; Max I. Richtman, minority staff director; Jo Jo Hunt, staff attorney; Mary Jane Wrenn, staff attorney; John Chaves, staff attorney; Michael Mahsetky, staff attorney; Alan Lovesee, attorney, House Committee on Education and Labor; and Jefferson McFarland, research assistant, House Committee on Education and Labor.

Senator COHEN. The committee will come to order. Today, the Select Committee on Indian Affairs is beginning a 2-day oversight hearing on Indian education. The hearing will focus on two principal topics: Federal responsibility for the education of Indians, and second, the Bureau of Indian Affairs Education Services including the BIA Elementary and Secondary Schools and Contract Schools as well as the reorganization of the Office of the Indian Education programs. Included will be the proposed transfer of the Indian Education Act, title IV program, to the Bureau of Indian Affairs, and the cumulative effect of budget reductions in impact aid, title IV, and BIA education programs on the quality of Indian education.

We have a number of tribal witnesses, and witnesses representing Indian organizations, who have come in to provide the committee with their views on these topics. We will hear from witnesses from the Department of the Interior and Education tomorrow.

I might say that Indian education issues are of great importance to the members of this committee. In the report on the Indian education programs are portions of the Omnibus Reconciliation Act of 1981. The committee raised and insisted on unique language which provided that the caps on the authorizations for appropriations for Indian education programs for fiscal years 1983 and 1984 should be closely scrutinized and appropriately adjusted in subsequent legislation if it found such authorizations will not adequately meet the educational needs of the Indian people.

This committee does not take lightly the Federal responsibility for Indian education. We certainly look forward to hearing the views of the scheduled witnesses on these important issues.

I might say, by way of caution at least, that I would hope you would try and summarize your statements and submit your full printed statements for the record. We have many witnesses this morning. If we have any hope of finishing before noon, certainly we are going to have to have some shortened oral presentations.

The first panel will include Mr. Rudy Clements, chairman of the Education Committee, and Zane Jackson. We will also have Ray Ramirez, who is director of the department of education, Papago Tribe; and Lawrence Gishey, director of the Navajo Division of Education; and Rosemary Zion, assistant director of the Navajo Division of Education, Window Rock, Ariz.

Gentlemen, you may proceed.

STATEMENT OF WARREN R. CLEMENTS, CHAIRMAN, STANDING COMMITTEE ON EDUCATION ISSUES, CONFEDERATED TRIBES OF THE WARM SPRINGS RESERVATION, ACCOMPANIED BY NELSON WALLULATUM, CHIEF, WASCO TRIBE, AND ZANE JACKSON, COUNCIL VICE-CHAIRMAN

Mr. CLEMENTS. I am Rudy Clements, chairman of the Standing Committee on Education issues of the Confederated Tribes of the Warm Springs Reservation of Oregon.

Before I proceed, I would like to formally introduce the chief of our Wasco Tribe on the Warm Springs Reservation, Mr. Nelson Wallulatum. On my left is the vice-chairman of our tribal council, Mr. Zane Jackson. We would like to make our full statement a matter of record, and we have relayed this information to your staff.

Senator COHEN. It would be appreciated if you would not read the full report or the full statement or package.

Mr. CLEMENTS. We have a short statement, and hopefully, it will be within 10 minutes.

It is a great honor for me to be here this morning as a spokesman for our tribal government and to present our concerns about the direction Indian education is taking. The standing committee which I chair and our tribal council worked long hours to prepare our positions on these issues. These are not matters that we treat lightly. I appreciate your willingness to listen to us and to help us furnish the educational services our tribal students deserve.

When I talked with a member of your staff last week to learn your specific legislative concerns at this hearing, I was told that you intended to focus on four issues: No. 1, the Federal responsibility for Indian education; No. 2, the nature of Bureau of Indian Affairs education services and the effects of the proposed reorganization; No. 3, the transfer of title IV Indian Education Act programs into the Department of the Interior; and No. 4, the cumulative effects of the reductions in Federal support on the quality of education for Indian students. These concerns directly parallel our tribal concerns.

Before we knew specifically your hearing agenda, we had prepared four position papers addressing these same issues. I have furnished the committee with copies of these materials which discuss at length the positions of the tribes of the Warm Springs Reservation.

Last week I also learned from your staff that you wish each person's testimony limited to 10 minutes. By using our position papers as reference documents and by answering a series of key questions, I will try to keep my remarks within these bounds.

No. 1, what is the position of the Confederated Tribes of the Warm Springs Reservation of Oregon on the major Federal issues facing Indian education?

By formal resolution, the tribal council of the Confederated Tribes has endorsed four position papers addressing Indian education. These position papers incorporate the following conclusions.

The Federal Government has a continuing obligation founded in our treaty and in numerous Federal laws to protect and strengthen our ability to remain a sovereign tribal community. This trust responsibility extends from our reservation and its natural resources to our tribal members, and it is fulfilled by the United States through its dealings with our established tribal government.

No. 2, the Federal Government's trust responsibilities include the obligation to provide our tribes with sufficient educational opportunities to assure our existence as a distinct and autonomous tribal community forever.

No. 3, the Congress should halt the BIA's plans to reorganize Indian education responsibilities until such time as the BIA gives Indian tribal government and communities a meaningful opportunity to review and to comment on the proposed actions in the appropriate legislative and administrative forums.

No. 4, Congress should require that BIA justify both its budget reduction and reorganization recommendations by specifying the administrative effects of such changes and the programmatic benefits of such changes for Indian students; also the level of services which tribal governments can expect after the change and the alternative recommendations considered and rejected in making the final reorganization plan.

Until such time as a comprehensive study and analysis of the proposal to transfer title IV has occurred within the BIA and the Department of Education and with tribal and congressional consultation, the Office of Indian Education should remain in the Department of Education.

Finally, the Bureau of Indian Affairs should abandon its plan to close boarding schools until a further study of the matter has been made and specific plans have been developed to assure adequate educational opportunities for the students displaced by such closures.

Our second question is, on what basis does the Confederated Tribes conclude that education is a trust responsibility owed by the United States?

The Confederated Tribes strongly believes that the United States trust responsibility encompasses much more than the protection of the tribes' land and physical resources. When the United States asserted its authority over Indian tribes, it assumed responsibility to protect the tribes and their members and their ways of life. The small portions of land that the tribes kept for their reservations constitute one of the aspects of this responsibility, but through treaties and other Federal laws, the United States also agreed to provide other guarantees that the tribes would continue in perpetuity with support from the Federal Government.

The trust responsibility is not a doctrine that Indian tribes can allow to be discarded when it no longer suits the Federal Government. It is a fundamental support for the relations between tribes and the United States. It is neither a historical curiosity nor a recent invention. We believe unequivocably that just as Indian people cannot be separated from their lands neither can the trust responsibility be separated between obligations that run with the land and obligations that serve the tribal governments and their members. The two are not separable into distinctive bureaucratic categories.

Education is as essential an element of the trust responsibility as is resource projection or any other aspect. For generations, the United States has supported Indian education in part because other adequate resources were not available, but far more importantly, this Federal involvement has stemmed from the unique legal and moral duty which the United States owes Indian tribes.

The fact that the trust responsibility is unique, however, should not make it vulnerable to the whims of Federal budget cutters. Instead this characteristic should make it a bulwark on which Indian tribes can rely forever. Although the Federal Government may shift the manner in which it carries out its trust responsibilities, it should never repudiate the reasons this responsibility exists and must continue.

This is the way the Confederated Tribes of the Warm Springs Reservation and probably most of the Indian tribes understand the trust responsibilities and its significance. It is our hope that this understanding will help you in making decisions that affect how the trust responsibility is carried out.

Question No. 3 would be, does the Confederated Tribes oppose the BIA's proposed reorganization of education services and why?

The answer is "Yes." Like many Federal decisions of late, the proposed reorganization of BIA education services has come out of nowhere with no opportunity for tribal review and consultation. Wrapped in its budget-cutting cover, the reorganization has been difficult to monitor. Tight time frames, constrained personnel and budget ceilings, and other factors all have minimized effective tribal participation in any of the reorganization decisions.

For most Indian tribes, the situation is analogous to the story of Chicken Little. The tribes have learned from Washington, D.C., that the sky is falling. However, unlike Chicken Little, the tribes are also being asked which part they would like to be hit by—impact aid, title IV, adult and vocational education, scholarships, Federal administrative support, boarding schools, or reorganizations.

Until such time as an opportunity is provided to tribes to understand and react constructively to the alternatives, the Confederated Tribes will oppose all Federal reorganizations. Our experience in the past demonstrates that such changes rarely benefit Indian people and frequently impede our progress.

Does the Confederated Tribes oppose the BIA's closure of off-reservation boarding schools and why?

Our answer is "Yes." The Confederated Tribes opposes the closure of off-reservation boarding schools for much the same reasons we oppose the BIA reorganization. To us the proposal appears rushed and ill-conceived. Instead of following the course that Congress set in the Indian Child Welfare Act for a study of the boarding school issue, the BIA has abruptly decided to close virtually all such facilities as quickly as it possibly can.

We see no evidence that the matter has been carefully considered or that the alternatives have been adequately weighed, and we have been provided no information of the effects these closures will have on those students, whether in boarding or public schools off-reservation.

Before the Confederated Tribes as a responsible government could endorse such a course of action, it would need to know what was being lost or gained. At present our doubt that the Federal Government has considered these tradeoffs makes us suspect of the closures.

We are concerned that the boarding schools as institutions, and far more importantly the students they now educate, not be sacrificed in a budget-cutting spree without regard to the consequences. We are not in the least placated by the assurance that our boarding school, the Chemawa School in Oregon, is not now being closed. The handwriting is on the wall for all to read.

The next question is, does the Confederated Tribes oppose transfer of title IV Indian Education Act programs to the BIA and why?

The answer is "Yes." The Confederated Tribes opposes the transfer of title IV to the BIA for much the same reason as we oppose the closure of off-reservation boarding schools and BIA reorganization of education. Some persons maintain that the transfer is necessary to save title IV before the Department of Education sinks. Others suggest that it is an effort to cut off services to Indians who attend public schools away from their reservations. Still others wonder if it is not an attempt to erode the trust responsibility.

Whether these or other motivations underlie the proposal, the Confederated Tribes opposes transfer until a rational explanation is advanced for tribal consideration. As I indicated before, we become very worried whenever the Federal Government suddenly announces a new change that has high-sounding but untested goals for the benefit of Indian people.

The next question is, can't the Federal Government cut excessive waste from Indian education without affecting the quality of services for Indian students?

The answer is "It does not appear so." Even before the 1983 budget was under consideration, the experience of the Confederated Tribes has shown that insufficient resources are available to educate our tribal members. Although tribal governments recognize they may never have the resources they might like, the recent announcements of the 1983 budget cuts go much deeper than just excising unneeded overhead. These cuts are already being felt in our community, and they will affect our students before the new budget even takes effect.

To compensate for the losses it anticipates from Federal and State revenues, our public school district has already eliminated services that directly affect tribal students. When school opens this September, the Warm Springs Reservation will have one elementary school, one less than we have today. The district is closing our Simnasho school, which serves students who live outside of our largest community, to save money. These students will be bused 20 to 40 miles each day to attend school in Warm Springs.

We may well experience other cutbacks in direct services in the year ahead. There will be a budget election this week for the school district. If it fails, no one knows what cuts will be made.

The Federal Government may be supporting excessive costs in some of its Indian education services. If it is, these should be cut, and the funds should be reprogramed to serve Indian students. But, it will never uncover waste from Washington, D.C., merely with sharpened pencils and with shifts in organizational boxes on a chart.

While the rhetoric rings in our ears the reality surrounds us in our schools and communities. And the reality we face is declining services for the education of our students.

Finally, won't the State step in to pick up the Federal services? The answer is they could. but they will not. Even if they did, this would not relieve the U.S. responsibility for assuring that Indian students receive adequate education which will enable them to play active roles in their tribes and communities.

When they do not, not only will the students themselves suffer the consequences, our tribes will bear the costs in one way or another.

I will be glad to answer any questions you have that I have not yet addressed. Thank you for the opportunity to testify here today.

Senator Cohen. Thank you very much. Perhaps we should complete the panel. Are there other members who would like to speak?

Mr. Ramirez.

STATEMENT OF RAY RAMIREZ, DIRECTOR, DEPARTMENT OF EDUCATION, PAPAGO TRIBE

Mr. Ramirez. I am Ray Ramirez, director, department of education, Papago Tribe. We extend our appreciation and gratitude for the opportunity to testify. We, too, have submitted a lengthy written testimony, and I would like to summarize that in my oral testimony.

Senator Cohen. It will be inserted in the record following your oral testimony.

Mr. Ramirez. We are approximately 150 miles from Phoenix. Our reservation consists of 4,462 square miles. It is a rather large reservation. Within this reservation, we have one high school which is a public school. We have two public elementary schools and three BIA elementary schools that provide services for our students.

With this year's cutbacks and proposed cutbacks for fiscal year 1983 and also for the proposals submitted by the Bureau of Indian Affairs through 1984 and 1985, the Papago Tribe is facing a real education crisis. It is very possible that by the year 1985 our children will have no schools to attend on the Papago Reservation, that is with cutbacks in impact aid and the proposed elimination of impact aid. Then the only public school more than likely will be forced to close. With the proposed closure of the off-reservation boarding schools, which approximately 70 percent of our students attend, this will force them to come back to the reservation again without any schools for them to attend.

I would like to cover some of the areas that are of major concern to us and also give some of our recommendations. We presently have seven early childhood programs within the reservation. We have developed these programs from scratch starting in 1975 and 1976. This is with the concern for quality education for our children. These programs have had a real impact on the education of our children.

Year after year, our children had scored at the very bottom of all testing scores throughout the State of Arizona. Since the inception of the early childhood program, these scores have risen dramatically throughout the years. As an example, in a public school we have on the reservation, the title I program is almost nonexistent now in the elementary grade levels because of the early childhood program.

The Bureau has refused to fund this program although it has been guaranteed under Public Law 95–561. By fiscal year 1982, early childhood programs will become a regular part of the Indian school equalization program under Public Law 95–561. This is because of the delay in the publishing of standards. This had never taken place. Therefore, we face the threat of closure of all early childhood programs at the end of this fiscal year.

Our recommendation here is that the publication of standards be expedited and pending publications of standards and the draft standards for the approved Head Start standards be utilized for implementing the formula funding for fiscal year 1983, and that the weight factor for prekindergarten programs be commensurate with the Head Start costs per child with the average of $2,300 per child.

The intern funding for the education program should be adjusted to reflect the actual cost of $2,300 per child for fiscal year 1983. The intern funding is all we are getting this year. The Bureau, to our knowledge, now funds 15 early childhood programs for 15 different tribes. In the funding the Bureau gives for the childhood centers throughout the country, the cost per child ranges anywhere from $3,909 per child to $260 per child. What we get is $499 per child.

What we are recommending is, for fiscal year 1983 this cost be adjusted to an average of $2,300 per child until the standards can be developed, and accepted, and published.

Our next major concern is that under Public Law 95–561 the Indian school equalization formula provides the funding that the Bureau schools and reservations receive. These are three elementary schools, grade 1 through 8. The Bureau has stated in their justification for fiscal year 1983 budgets that the relative rates were determined on the basis of the best practice and experience of State school systems developing funding formulas.

It has been our experience that State equalization formulas nowhere come close to meeting the needs of Indian school districts. The State equalization formulas do not take into consideration the transportation problems involved in getting students to school and the high cost of transporting goods and the high cost of transportation per se. Also the high cost of providing and maintaining teacher housing and the actual needs of bilingual students and very many other cost factors have never been taken into consideration by State equalization formulas.

It is evident since the Bureau has adopted these formulas that the ISEP program does not meet the needs of the schools. For example, since 1979 when the Indian school equalization program was implemented, our schools had lost up to 44 percent of the funding. Because of this, the three Bureau schools on the reservation had to eliminate physical education classes, art classes, music classes, home economics, science, vocational education, counseling programs, breakfast programs, field trips, and some sports activities. We have also been unable to purchase text books, classroom supplies, and materials. Also included in this is the much needed equipment in the kitchen and in the classrooms. It is very obvious that the ISEP program does not meet the needs of the Indian schools.

Also under the formula there is a subformula for student transportation. In the fiscal year 1983 proposed budget, the Bureau has asked for an increase of $166,000. This was to cover the increased fuel costs. As the formula is today, it does not even come close to meeting the actual transportation needs that we have on the reservation. As an example, one of our schools had to take an additional $93,000 out of their regular school budget to put into transportation to meet the actual cost and the actual needs of the transportation. This is true throughout the three schools.

Senator COHEN. Why are the transportation costs so high?

Mr. RAMIREZ. Most of our students are on a busing average of 1½ hours a day one way. Also they go through some very rough roads. The transportation formula does not take into consideration the salaries of the drivers and the high maintenance cost if a bus breaks down. It has to be driven 140 miles to the closest place for repairs. It will sometimes take weeks while it is being repaired, and the school has to lease another bus, which is a huge cost. None of these things are taken into consideration whatsoever in this formula.

Also one of the keys to Public Law 95–561 has been the school board assuming, for the first time, local control of the schools on the reservation. Again, the Bureau is proposing that the schools assume most of the cost of training the school board. As the budgets are drained beyond capacity already, it is impossible that our schools can assume the additional cost of training the school board. Yet the school board's training is critical to the success of Public Law 95–561.

Also of major concern under Public Law 95–561 is the area of educational technical support, which in turn is the Bureau administration. Out of all the areas under Public Law 95–561, this area has been requested for a $1,309,000 increase. Again we see the Bureau protecting its administration and putting money into their administration while they continue ignoring the transportation and the actual cost of providing a good education to our children.

The recommendations in this area are that the Bureau of Indian Affairs must take immediate steps to handle all funding and place more emphasis on schools and local programs. The Indian School formula must also be adjusted to meet the actual needs and costs of reservation schools, and the Congress of the United States should appropriate adequate funding for all schools and instruct the Bureau to develop necessary systems without a topheavy administration to meet the educational needs of all Indian children and the respective schools and programs.

Another major concern of ours is the proposed closure of off-reservation boarding schools. Again, as I mentioned at the very beginning, with the proposed closure of off-reservation boarding schools, we will have approximately 500 to 600 students returning to the reservation without schools. This problem is compounded by the fact that our only public high school and only high school on the reservation may be forced to close if the proposals on impact aid are followed through. So we are faced here without school systems and the possibility of being without them for our children. If all schools were forced to close, the numbers could range between 2,500 and 3,000 students without a place to go. It is impossible for our students to attend off-reservation public schools because of the transportation costs and the distance involved.

Also I should mention in that regard that in the later study, the Bureau conducted, the day school opportunity for all Indian children, which will be the reality of the tribe getting a new high school, the Papago Tribe will have 80 percent of all the unhoused students in the entire Phoenix area.

Our recommendations on the proposed closure of the off-reservation boarding schools are as follows: The Papago Tribe contends it is guaranteed under the Public Law 93–638 that the tribes, and only the tribes, are responsible for making any decisions as to the fate of boarding schools. It is we who determine whether or not a school must remain open or closed. Thus far, the Bureau's actions as to the future of the boarding schools is a direct and flagrant violation of the law and the intent of Congress.

The Bureau must immediately cease its proposals on the closure of off-reservation boarding schools. The Bureau must now begin a comprehensive planning phase which would include the construction of schools on reservations and seek adequate appropriations from Congress to meet the educational and social needs of our children and afford all Indian children a day school opportunity. This must be the No. 1 priority of the Bureau until the time that the job is complete. Only at that time can the Bureau begin an orderly phaseout of the off-reservation boarding schools.

In line with this, another concern we have is school construction under Public Law 93–638. As you can tell, one thing we can see, too, is the day is coming for sure when off-reservation boarding schools will be closed. We support that they should be closed. We would like nothing more than having our children at home with their families and with us. We cannot afford this until the day when we have facilities on the reservation to take the place of the off-reservation boarding schools.

Under the Bureau's fiscal year 1983 construction proposals, there is no room or no funding for any future construction of schools on the reservation. An example of this is the proposed transfer of the funds to the Bureau which has been zeroed out. At the same time, the Bureau has left a budget of almost $900,000 to administer a zero budget of construction. We realize the Bureau has stated they need the $900,000 to administer the construction programs that are in progress. We find it hard to believe that under the budget of 1982, which had $9 million, in this figure there was a staff of 22 people to administer that program. With the elimination of that $9 million, the Bureau has only eliminated one staff person. There is now a total staff of 21 to administer a program that has been zeroed out. Again, we question the whole authority and the whole idea of this.

We also recommend in this area that fiscal year 1983 budget appropriations must contain provisions for continuing and increasing support of construction of schools on Indian reservations.

Another concern is the element of the community education program under Public Law 93-638. During fiscal year 1982, the tribes throughout the country lost all their element No. 10 funding under the contract. The Bureau interpreted the Senate language to mean that all Public Law 93-638 contracts should be eliminated. As a result of this, the Papago Tribe lost all of its higher education programs. There are now no programs on the Papago Reservation that provide services to the students attending universities or colleges. By this, I mean any support services. The Bureau does maintain scholarships and some grants, but again there are no services on the reservation to our students who wish to attend universities or off-reservation facilities of higher education.

The recommendation on this is that all funds previously obligated to Public Law 93-638, contracts with Indian tribes not operating tribal school systems but operating supplemental services in Indian education under element No. 10, should be replaced, restored, or otherwise made available for fiscal year 1983. This replacement, restoration, or otherwise action should not and must not come about at the expense of the operation of other 93-638 contracts in education or at the expense of other educational services provided to tribes or through the BIA budgets.

Our last concern in impact aid, Public Law 81-874. The proposal either severely limiting or ending impact aid altogether by fiscal year 1985 would have a disastrous effect on the Papago Reservation. As I mentioned, our only public school on the reservation relies on 41 to 46 percent of its funding that comes from impact aid. The elimination or the severe reducing of this program could ultimately result in the closure of our only high school and our only other two public elementary school districts on the reservation.

Our recommendation is that fiscal year 1983 appropriations for Public Law 81-874 for the impact aid program must not suffer any additional cuts in public schools on Indian reservations if they are to survive. The tribe recommends that the fiscal year 1983 funding level be restored at the fiscal year 1981 level of $756.6 million at the very minimum.

That concludes my testimony. Thank you very much.

Senator COHEN. Thank you, your prepared statement will be included in the record at this point.

[The statement follows. Testimony resumes on p. 22.]

PREPARED STATEMENT OF THE PAPAGO TRIBE OF ARIZONA SUBMITTED BY THE PAPAGO EDUCATION DEPARTMENT, RAY RAMIREZ, DIRECTOR

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THE PAPAGO TRIBE OF ARIZONA
P.O. Box 837 • Telephone (602) 383-2221
Sells, Arizona 85634

May, 1982

TO WHOM IT MAY CONCERN:

Ray Ramirez, Director of the Papago Education Department has been delegated as the official representative to speak and present written testimony on behalf of the Papago Tribe to the Senate Select Committee on Indian Affairs - Indian Education Hearings, May 18-19, 1982, Washington, D. C.

Your cooperation is appreciated.

Max H Norris
Max H. Norris, Chairman
THE PAPAGO TRIBE OF ARIZONA

MHN/mmv

NARRATIVE

The Bureau of Indian Affairs (BIA) as the lead agency for carrying out the educational trust responsibility for the Tribes, has the solemn obligation to provide quality education from early childhood through life in accordance with the Tribes' needs for cultural and economic well-being. This obligation and mission has been aborted both by the FY 82 and the proposed FY 83 budget cuts in the BIA Education budgets. BIA's continual attempt at protecting their administrative layers at the expense of Tribal education programs further intensifies the violative nature of these reductions.

BIA's plan to close or consolidate seven (7) of the Areas Offices will result in a $16 million savings in FY 83 and a total savings of $32 million over the next two years. The BIA must meet its mandate in reducing administration and restoring and maintaining its education budgets and programs to a level necessary for the operation of quality programs for and by Tribes. Indian Education cannot and must not absorb additional cuts, if the responsibility and obligation of the federal government to the Tribes is to be responsibly met in FY 83.

The BIA has not followed the dictates of the law, P. L. 95-561. The deadlines for various parts of the law to be implemented have not been met. Requirements to provide Early Childhood Education program funding have been ignored. The Education Standards have not been presented to Congress or to the Tribes for review and comment; the deadline for doing this is now more than two years past. The line-authority established by the Title XI has been blatantly ignored by the Assistant Secretary for Indian Affairs.

BIA-funded education programs are suffering because of the failure of the BIA to implement fully the provisions of this law.

Congress must be required to appropriate sufficient funding to allow the full intent of Title XI, P. L. 95-561 to be realized. OMB must approve and endorse the DOI's request of these funds in FY 83 and in the future. BIA must read the act closely and then follow its mandates.

In several instances, careful review of existing Title XI policies and activities is necessary. The ISEP formula does not adequately fund reservation schools and smaller schools. Deficiencies in the formula need to be corrected, either by developing a meaningful weighting to account for the unique needs of reservation schools or through some other mechanism.

EARLY CHILDHOOD EDUCATION

The Papago Tribe of Arizona has operated an Early Childhood program since fiscal year 1976. This program became an official Tribally contracted school system in FY 1979. Plans for the continued operation of the program were based on the Congressional directive in the Indian Education Amendments of 1978 requiring the Bureau to establish "a formula for determining the minimum annual amount of funds necessary to sustain each Bureau or contract school" and to "fully implement the formula for fiscal year 1982 and any succeeding fiscal year." (See, 25 U.S.C.A.§2008, 1980 Supp.)

Pre-kindergarten programs were clearly included in the 1979 I.S.E.P. regulations which a) required the preparation of pre-kindergarten weight factors for the equalization formula, and b) mandated that pre-kindergarten programs be included in the Bureau's appropriations request for fiscal year 1982. Finally the Bureau violated its own regulations (§31.a4, 44 Fed. Reg. Oct. 9, 1979) by failing to inform the Papago Tribe and others of its failure to meet these requirements.

We therefore submit that the Bureau is in violation of Federal law and regulations both for fiscal year 1982 and fiscal year 1983 since the only pre-kindergarten appropriation requested for both these years is the interim funding which was to have been replaced with formula funding in 1982. Numerous communications have been sent to the Bureau regarding this matter beginning with Tribal Resolution 98-80, Oct 7, 1980; letters to Dr. Earl Barlow, Feb. 12, 1980 and June 15, 1981; Tribal Resolution 68-81, June 17, 1981; letter to John W. Fritz, Jan. 21, 1982, letter to Dr. Gabe Paxton, Feb. 8, 1982; statement to Roy Sampsel, April 22, 1982; plus several letters and verbal communications both with the local agency and Phoenix Area Office.

The only formal responses we have received were from Dr. Barlow, July 28, 1981 in which he stated "Due to the Regulatory Flexibility Act, P. L. 96-354, and a recent moratorium on enactment of certain types of regulations, the Office of Management and Budget informed O.I.E.P. that we could not implement any additional regulations until the academic and residential standards were in place. After acceptance of the standards by O.M.B., O.I.E.P. will then publish the proposed regulations involving the establishment of a weight factor for pre-kindergarten programs, for comment. After final publication of these regulations, the Bureau will then be in a position to request funding for the early childhood education program as specified in the I.S.E.P."

The other response was from Dr. Gabe Paxton, Mar. 2, 1982. He states "To date, neither D.O.I. nor O.M.B. has deleted the pre-kindergarten requirements from the education standards. However, the pre-kindergarten programs will not be included in I.S.E.P. funding formula until the education standards are promulgated. We doubt this will take place until fiscal year 1984...On Feb. 1, 1982, the Assistant Secretary-Policy, Budget and Administration responded to the proposed standards by memorandum. He is requesting additional information on policy issues... At this time, we have no indication when the standards will be cleared for publication..." A request to Mr. Sampsel from the Papago Tribe for additional information on the standards, Apr. 22, 1982, has not been answered.

Therefore, it appears that the only funding available for pre-kindergarten programs in 1982 will be the interim funding which O.I.E.P. requested in the amount of $1.7 million. Prior level was $1,722,690. This money is allocated to 15 existing programs, two of which are B.I.A. operated. Costs per child under these allocations ranges from a high of $3,909.00 to a low of $262.00. Papago's allocation is $499. In view of these facts, the Papago Tribe of Arizona recommends:

1. That the publication of standards be expedited in any way possible.
2. That pending the publication of standards, the draft standards or the nationally approved Head Start Standards be utilized for implementing I.S.E.P. formula funding for fiscal year 1983.
3. That the weight factor for pre-kindergarten programs be comensurate with Head Start costs per child which has an accepted average of $2,300.00.
4. That interim funding for Early Childhood Education programs be adjusted to reflect the actual cost of $2,300.00 per child for FY 1983 so that these programs can remain in operation until the Bureau establishes its I.S.E.P. funding for Early Childhood.

INDIAN SCHOOL EQUALIZATION FORMULA - P. L. 95-561

According to the I.S.E.P. formula, different educational activities conducted by the Bureau of Indian Affairs, such as kindergarten education, elementary and secondary education, bilingual education, residential programs, and programs for different types of handicapped students are assigned various weights. The Bureau has stated in their FY 1983 budget justification that the relative weights were determined on the basis of the best practice and experience of State school systems which have developed equalization funding formulae. The best practice of State equalization funding formulae have never taken into account the unique educational expenses experienced by reservation schools and are not based on the educational interest of Indian children. As an example, the State of Arizona equalization formula, if passed, will virtually close down most public school districts within the Arizona Indian reservations. These State equalization formulae do not take into consideration the extreme isolation factors on reservations, the excessive transportation problems involved in getting students to school, the high cost of transporting goods and supplies, the high cost of providing and maintaining teacher housing, the actual needs of bilingual students, in addition to many more cost factors that are not experienced by other State schools.

The I.S.E.P. program, as has been allocated in the past with no change requested for FY 1983, also does not take these factors into consideration on their funding for Papago schools as well as most other schools on Indian reservations. This present system and formula, if continued, will only result, in the very near future, in substandard education on all grade levels.

The three Bureau operated schools on the Papago Reservation, Santa Rosa Boarding School (437 students grades K-8), San Simon School (250 students grades K-8), and Santa Rosa Ranch School (29 students grades K-7) have lost up to 44% of their funding since FY 1979 under the I.S.E.P. program. As a result of these severe losses in funding, these schools have had to eliminate Physical Education classes, Art, Music, Home Economics, Science, Vocational Education, Counseling Programs in dormitories, breakfast programs, field trips, and some sports activities. They have also been unable to purchase textbooks, classroom supplies and materials, and much needed classroom and kitchen equipment. Needless to say, funding under the I.S.E.P. program is in no way adequate. Funding under I.S.E.P. must be adjusted to meet the actual needs of the schools and the unique problems experienced by reservation schools.

Under the subformula of student transportation, the Bureau has asked for an increase of $166,000 for FY 1983 to cover the increase of fuel costs. During FY 1982 this funding did not even cover 50% of the actual costs for our schools. San Simon School had to take an additional $93,000 from their operating budget just to cover the actual costs of student transportation. Santa Rosa Boarding School and Santa Rosa Ranch School had to do likewise at a tune of $32,000 and $7,000 respectively.

The Bureau has also stated in their budget justification that, in FY 1983, the schools will have to absorb most of the costs of the School Board Training Fund within their existing budgets. The key to the success of P. L. 95-561 lies within the ability of the local school boards to assume the decision making authority and make local control, at long last, a reality for Indian people. Schools cannot assume this cost as their budgets are already drained beyond capacity. We must even question the Bureau's definition of local control when the major decisions on the schools, such as the number of FTE (Full Time Equivalent) personnel are made by the Bureau's Central Office officials and not by the local school boards.

As we observe our schools and the quality of education being reduced to a shamble and a disgrace to quality education we must point out one last hard fact. The Bureau has asked for a budget of $10,228,000 for Education Technical Support for FY 1983, an increase of $1,309,000 over FY 1982. We once again experience what the Bureau of Indian Affairs' real priorities are, ADMINISTRATION. The Papago Agency's education administration consists of a staff of two people. Where then does this administration funding flow? Our schools and our Tribe have not benefited from this $10,228,000.

RECOMMENDATIONS

1. The Bureau of Indian Affairs must take immediate steps to reprioritize all educational funding and place all emphasis on schools and local programs.
2. The Indian School Equalization Formula must be adjusted to meet the actual needs and costs of reservation schools.
3. The Congress of the United States should appropriate adequate funding for all schools and instruct the Bureau develop the necessary systems, without a top heavy administration, to meet the educational needs of all Indian children and the respective schools and programs.

PROPOSED CLOSURE OF OFF-RESERVATION BOARDING SCHOOLS

The Papago Tribe of Arizona wishes to go on record stating our opposition to the Bureau of Indian Affairs proposal to close down Phoenix Indian School and

Intermountain Indian School.

It has long been our wish that the need for off-reservation boarding schools would no longer exist. It has been our dream that one day all of our children would have the opportunity to attend schools in or near their own communities. As we observed the closure of Stewart Boarding School in 1980, without Tribal consultation, and now the recommended closures of Phoenix Indian and Intermountain, we are faced with an educational crisis with severe consequences. The Papago Reservation continues to lack that basic educational right of affording our children educational opportunities on the reservation. Year after year we continue to send 500 to 600 of our high school age children to off-reservation boarding schools, not by choice, for schools on our reservation to accomodate these children do not exist.

The Bureau of Indian Affairs efforts to close down boarding schools without any significant planning on future construction of schools on the reservations to take the place of boarding schools is a blatant denial of the right to a free education for our children. We feel sure that the intent of the House Language in recommending the closure of boarding schools was not meant as a denial of Federal Responsibility for the education of Indian children. However, the lack of money for school construction, the moratorium on new school starts and expansions plus the unavailability of public schools and limited Bureau schools on the Papago Reservation will inevitably result in the shirking of that responsibility.

As already mentioned, the crisis we face may well be a disaster beyond realization. We currently have one public high school (Indian Oasis) on our reservation. With President Reagan's proposal on phasing out Impact Aid funds (P. L. 81-874), of which, constitutes 46% of the public school's funding, our only high school will be forced to close. This, along with the Bureau's proposed closure of boarding schools will result in the very real possibility that by the year 1985, our children will have no schools to attend. Who then will take responsibility for these devastating actions?

The Papago Tribe currently has 546 students attending off-reservation boarding schools; 126 students at Phoenix Indian, 250 students at Intermountain, and 170 students at Sherman. The proposed closures would displace a minimum of 376 students. We have estimated that this figure will rise to 450 plus students by fiscal year 1985. What schools does the Bureau propose our students to attend? It would be impossible for Sherman Indian School to absorb all the displaced students from the Tribes, yet we are faced with no other alternatives.

In reviewing the recent Bureau feasibility study entitled A Day School Opportunity for All Indian Children several factors became evident. Throughout the study, the need for an additional high school on the Papago Reservation has been stated but must be emphasized. Of all the agencies studied, the Papago Agency and all agencies under the Navajo Area were the only agencies identified to have a lack of day school opportunities for both elementary and secondary students (Executive Summary, pg. 6). Papago students make up 46% of all unhoused students in the Phoenix Area (Initial Report, Chap, VIII, pg. 65). This percentage has increased since the completion of this study due to the severe overcrowding of our only high school on the reservation (Indian Oasis Public School), an increase in number of students attending off-reservation mission schools, and an increase in the drop-out rate. Our figures show a target population of 387 to 450 unhoused students. This percentage also increases dramatically to Papago having 80% of all the unhoused students in the Phoenix Area now that the proposed high school on the Hopi Reservation will become a reality.

RECOMMENDATIONS

The Papago Tribe contends, as guaranteed under P. L. 95-561 and P. L. 93-638, that Tribes and only the Tribes are responsible for making any decisions as to the fate of boarding schools. It is we who determine whether or not a school must remain open or closed. Thus far, the Bureau's actions as to the future of the boarding schools is a direct and flagrant violation of the law and the intent of Congress.

The Bureau of Indian Affairs must immediately cease its proposals on the closure of off-reservation boarding schools. The Bureau must now begin a comprehensive planning phase which would include the construction of schools on reservations and seek adequate appropriations from Congress to meet the educational and social needs of our children and afford all Indian children a day school opportunity. This must be the number one priority of the Bureau until the time that the job is complete. Only at that time can the Bureau begin an orderly phase out of the off-reservation boarding schools.

SCHOOL CONSTRUCTION - P. L. 93-638 and P. L. 81-815

The proposed phase-out of School Construction under P. L. 81-815 and the deemphasis in BIA school construction under P. L. 93-638 virtually eliminates any hope of contract, BIA or public schools being able to obtain federal assistance for construction of desperately needed facilities.

San Simon School, a Bureau operated school on the Papago Reservation, which was to serve students on the western part of the reservation, was originally proposed for grades K-9 but due to the lack of funds, only one phase of the school was completed. Facilities for grades 7-9 were left out to be completed in Phase II, for which appropriations have been promised since 1975. We are still waiting.

The Bureau of Indian Affairs efforts to close down boarding schools without any significant planning on future construction of schools on the reservations to take the place of boarding schools is a blatant denial of the right to a free education for our children. We feel sure that the intent of the House Language in recommending the closure of boarding schools was not meant as a denial of Federal responsibility for the education of Indian children. However,the lack of money for school construction, the moratorium on new school starts and expansions plus the unavailability of public schools and limited Bureau schools on the Papago Reservation will inevitably result in the shirking of that responsibility. Now that the proposed high school on the Hopi Reservation will become a reality, the Papago Tribe will have 80% of all the unhoused students in the Phoenix Area.

These unmet needs and the unforeseen problems have left the Papago Reservation without adequate school facilities and have denied our children to their basic right to quality educational services and a day school opportunity. The Papago Education Department, during the process of developing a comprehensive education plan, has held public hearings in each of the reservations eleven districts as well as conducting random surveys. The number one concern of both students and parents has been the lack of schools on the reservation and deep concern over the boarding school system. They have identified as their number one priority the construction of schools on the reservation so that all of our children can once again remain home with their families.

RECOMMENDATIONS - The FY 1983 BIA budget appropriations must contain provisions for continuing and increased support for school construction on Indian reservations.

ELEMENT 10 - COMMUNITY EDUCATION P. L. 93-638

A total of 60 Indian Tribal P. L. 93-638 contracts have been terminated as a result of the House and Senate Conference Committee's action inadvertantly to transfer school operations out of the education program management budget (element 10) and into the more generally defined Indian School Equalization Program budget (ISEP). The problem is: $754,000 of these funds have previously funded Indian Tribal education contracts for Tribes who do not operate Tribal schools (and hence are not part of ISEP) but who provide supplemental education programs and services at the local agency level. Since these Tribes do not operate school systems and do not receive ISEP funding, it is not appropriate for these Tribes to be included in the ISEP budget. Most of these Tribes depend on Element 10 funds for the administration of supplemental education programs, including Johnson-O-Malley and higher education grants, at the local level.

Rather than moving to correct the problem, BIA has interpreted the language in the Conference Report to mean that these P. L. 93-638 contracts were intentionally eliminated by the Conference Committee.

All funds previously obligated toward P. L. 93-638 contracts with Indian Tribes not operating Tribal school systems but operating supplemental services in Indian education under Element 10 should be replaced, restored or otherwise made available for FY 83. This replacement, restoration or otherwise action should not and must not come about at the expense of the operation of other 93-638 contracts in education or at the expense of other of the education services provided to Tribes or through Tribes by the BIA's education budgets.

P. L. 81-874 IMPACT AID

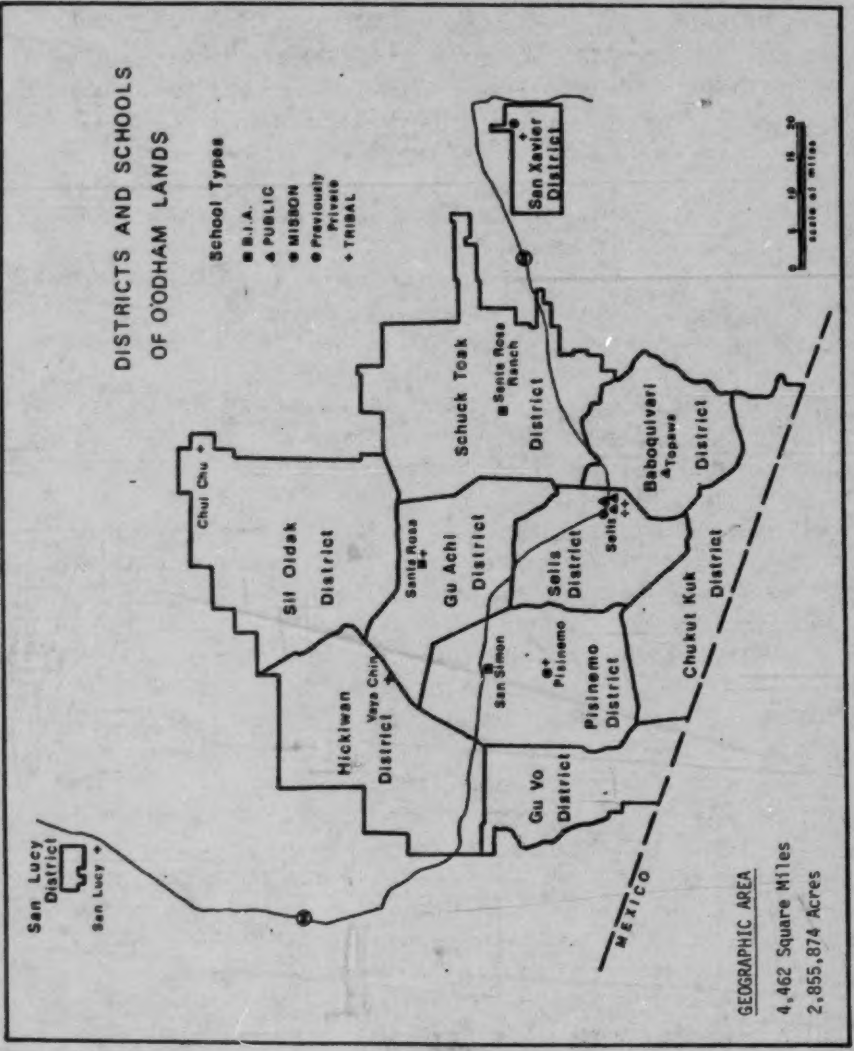
The Papago Tribe urges Congress to continue funding for Indian students in public schools under the Impact Aid program. This program has evolved into an effective means of fulfilling federal responsibilities while enhancing state-supported public education in the field of Indian education.

The Impact Aid programs as it currently exists performs three valuable functions: 1) it enables the Federal Government to promote Indian education with a minimal direct intervention in the educational process; 2) it encourages States to assume an obligation to educate Indian students which they would otherwise be inclined to forsake; and 3) it provides a vehicle for Indian tribes to pursue their legitimate interest in the education of Tribal members.

In Arizona, if most reservation school districts had to rely on the state school finance act alone, they could not survive. The extremely low assessed valuations of reservation school districts render them highly dependent on revenues other than local taxes. The higher costs flowing from pupil transportation, teacher housing, rural economic isolation, and cultural differences which Congress has recognized, receive no similar recognition from Arizona.

RECOMMENDATION - FY 1983 appropriations for P. L. 81-874 Impact Aid Program must not suffer any additional cuts if public schools on Indian Reservations are to survive. The Papago Tribe recommends that the FY 1983 funding level be restored at the FY 1981 funding level ($756.6 million) at the very minimum.

PAPAGO RESERVATION


DISTRICTS AND SCHOOLS
OF O'ODHAM LANDS
School Types
■ B.I.A.
▲ PUBLIC
● MISSION
● Previously Private
✚ TRIBAL
San Lucy District
San Lucy
Chui Chu
Sil Oidak District
Hickiwan District
Vaya Chin
Gu Vo District
Gu Achi District
Santa Rosa
San Simon
Pisinemo
Pisinemo District
Sells District
Sells
Schuck Toak District
Santa Rosa Ranch
Baboquivari District
Topawa
Chukut Kuk District
San Xavier District
MEXICO
0 5 10 15 20
scale of miles
GEOGRAPHIC AREA
4,462 Square Miles
2,855,874 Acres

RESOLUTION OF THE PAPAGO TRIBAL COUNCIL
(P. L. 81-874 IMPACT AID)

RES. NO. 48-82

WHEREAS, the Papago Tribal Council, the Papago Education Committee and the Board of Trustees of Indian Oasis/Baboquivari District have the joint responsibility for overseeing and protecting the educational rights and needs of all children, living on the Reservation; and

WHEREAS, protecting the educational rights and needs of our children is of utmost priority for attaining our future goals of economic development and self determination; and

WHEREAS, the land within the exterior boundaries of the Papago Reservation is held in trust by the Federal Government and this seriously limits the ability of the public school district to raise funds for education through local property taxes; and

WHEREAS, recent congressional and administrative proposals and actions call for the elimination of funding for Impact Aid, P. L. 81-874 and School Construction, Maintenance and Operation, P. L. 81-815 for the coming fiscal years; and

WHEREAS, any elimination or reduction of funding for school districts serving children residing on Indian lands reduces the budgets of those schools by as much as 45% of their total budgets; and

WHEREAS, the Indian Oasis/Baboquivari School District serving students on the Papago Reservation rely upon funding provided by P. L. 81-874 for 41% of their operating budget; and

WHEREAS, under existing law there are no other sources of state or federal education funds to replace P. L. 81-874 monies. Therefore, the elimination or substantial reduction of Indian P. L. 81-874 funds will force the Papago public school to discontinue providing all educational services on our Reservation; and

WHEREAS, because the Bureau of Indian Affairs has no adequate facilities to educate children attending public school on the Papago Reservation, closure of the public school will mean that approximately 1,100 students will not have any educational opportunities whatsoever. The proposed closures of the B.I.A. off-reservation high schools in fiscal years 1983-85 will force approximately 550 students to return to the Reservation, thereby worsening this situation substantially; and

WHEREAS, in 1978, Congress amended P. L. 81-874, to enable Tribes to assist public schools to plan for the use of P. L. 81-874 funds in ways which are consistant with Tribal educational objectives. This amendment will be rendered meaningless if P. L. 81-874 funds are eliminated or substantially reduced; and

WHEREAS, applicable law, including the Federal Indian Trust Responsibility, the equal protection and due process clauses of the Federal Constitution, and the Treaty of Guadalup-Hildago, require the

RES. NO. 48-82
P. L. 81-874 IMPACT AID
Page Two

United States to insure equal and adequate education opportunities for children on the Papago Reservation.

NOW, THEREFORE, BE IT RESOLVED that the Papago Tribal Council hereby respectfully requests that the Congress and the President of the United States take immediate steps to restore in full all entitlements under P. L. 81-874 and P. L. 81-815 and reaffirm their commitment that all Indian children shall enjoy the benefits of public education equally with other children.

BE IT FURTHER RESOLVED that the Papago Tribal Council does hereby authorize and request its officers, attorneys and lobbyists to take all action necessary to seek to preserve P. L. 81-874 and P. L. 81-815 funding for all public schools serving Papago children.

BE IT FURTHER RESOLVED that the Papago Tribal Council does hereby respectfully request that Senator Barry Goldwater, Senator Dennis DeConcini and Representative Morris Udall speak on behalf of the Papago Tribe of Arizona.

The foregoing Resolution was duly enacted by the Papago Council on the 13th day of May, 1982, at a meeting at which a quorum was present with a vote of 1148.0 for; 0 against; 0 not voting; and 2 absent, pursuant to the authority vested in the Papago Council by Section 2 (d) of Article V of the Constitution and By-laws of the Papago Tribe of Arizona as amended, ratified by the Papago Tribe on December 12, 1936, and approved by the Secretary of the Interior on January 6, 1937, pursuant to Section 16 of the Act of June 18, 1934 (48 Stat. 984). Said Resolution is not subject to review by the Secretary of the Interior and is effective as of the date of its enactment by the Papago Council.

THE PAPAGO COUNCIL

Max H Norris
Max H. Norris, Chairman

ATTEST:

Rose Johnson, Secretary

ILJ/05-82

Senator COHEN. Mr. Gishey.

STATEMENT OF LAWRENCE GISHEY, EXECUTIVE DIRECTOR, NAVAJO DIVISION OF EDUCATION, ACCOMPANIED BY ROSEMARY ZION

Mr. GISHEY. I am Lawrence Gishey, executive director for Navajo Division of Education.

Senator COHEN. Your entire statement will be inserted into the record following your oral testimony.

Mr. GISHEY. I would like to bring out some concerns we have on behalf of the Navajo Tribe dealing with the budget itself and with some of the high costs involved in Indian education. Also, I would like to talk about some of the rule changes that are proposed and that have taken place which had a direct affect upon education. Also, I would like to talk about some concern on the consultation with the Indian tribes while some of these budgets and rule changes are being made.

I represent a population of the Navajo people of approximately 160,000. Sixty thousand of that population are young people attending school through the 12th grade. On our reservation, we have 72 schools. Sixty-two of them are BIA-operated schools. Ten are contract schools. They serve a population of approximately 23,000 Navajo students. We also have 18 public school districts serving a student population of approximately 37,000 students.

One of the main concerns—and I want to emphasize this—is the trust responsibility to the Federal Government with the Indian tribes. They have a treaty where there is a special provision for educating Indian children. This is one of the concerns that we have. We want our children to get the best education, and we feel that for survival as a people and as a nation, education has to be No. 1 as our priority.

Let me immediately go to the recommendations which we have for this committee. First we want to review and investigate implementation of Indian self-determination in Public Law 95–561 to determine if the intent of Congress, to encourage community control of Indian education policy in programs, is being realized by Federal agencies involved in administering the programs. This review should include a GAO audit of all funds involved in or affecting programs under these laws.

I believe we have a delegation from the Navajo School Board Association and the National School Board Association who may elaborate further on this.

No. 2 is to assure funding is made available for Public Law 93–638 contracts in education that covers the full value of assets available to the Bureau to directly run the education programs including indirect assets such as the Government's ability to self-insure, and assets available in the form of services from other governmental agencies.

Many times when contracts are taken over by a tribe, many of the support services of funds needed to run an effective program simply get undercut and are not available. The facility construction and operation improvement division should be returned to the direct control of the BIA, and the division should be returned to observe the congressional requirement of consultation with Indian tribes and communities in any decisions affecting Indian education.

Facility construction and approval decisions should reflect the needs and wishes of Indian tribes and communities, not the expediencies of the division. The Navajo Tribe is facing a plan by the Bureau to close a certain number of schools. This draws much concern. We feel we should be consulted if there is any determination being made on which schools are to be closed. Consultation with the tribe is very important to us.

We would require BIA to give decisive consideration to the needs of the Indian tribes in developing regulations implementing the Indian Self-Determination Act in Public Law 95–561. This involves effective consultation with tribes before and during the drafting of these laws. A one-time meeting to inform Indian tribes of what the Bureau is planning to do is not enough.

Currently the rules and regulations of Public Law 95–658 are undergoing changes, and we feel that consultation should be with the tribes, so we are aware of what the changes are that are being planned and have effective input in those changes.

We would develop a mechanism for funding of Indian education programs which parallels the budget year of schools. Currently the funding starts October 1, and most of the schools on the reservation start in August. That creates a lot of problems especially when you consider the startup costs on any school. It is greater toward the closure of the school or the end of the school terms.

Next we would develop a 5- to 10-year plan for funding construction of schools coordinated with public schools on or near Indian reservations. This should include construction under Public Law 95–815 under the Self-Determination Act and construction and major repair of the BIA-funded schools.

Next is to continue the impact aid program in the Department of Education and at no less than its present level.

Next is to reauthorize the title IV program within the Department of Education, Office of Indian Education Programs, at least at its present level.

Next is to reauthorize the title VII Bilingual Education Act program, which promises to allow funds to be used to encourage preservation of bilingualism and biculturalism of Indian schoolchildren. It should not be used merely to provide a transition into English.

In addition, this program should be implemented with supercenters specifically for Indian education. There again, I believe that title VII is undergoing major changes, and there is no provision for Indian centers. We feel if there is to be Indian or supercenters in bilingual education, let this be one of them.

Either amend or provide interpretation of the law providing block grants for education for the State so that BIA funded schools may participate in these programs. One example is the library services. We have contract schools that we are participating in as to the program, but with the block grants, we were told we were ineligible.

Next is that there is currently a Cabinet level task force making administration policy for Indian programs which to this date has not consulted with Indian tribes. The Congress should do what it can to direct that this policymaking process be conducted in conultation with Indian tribes and affected groups.

The Johnson-O'Malley program should be continued at its present level of funding and reduce the redtape plaguing this program and see that money gets to the schools on time. This year the schools started operating back in October. The time it takes to get the moneys to the schools has been delayed extensively this year.

Next is that changes should be made in the way the Treasury Department moves money to Indian schools. The process should be simpler for the schools and should get the money there on time. The schools should not be required to spend an allocation equally over all four quarters of the fiscal year, since their expenses tend to be heavy at the beginning of the school year. Here again the requirement may be well intentioned, but any startup costs for school operations is heavy up front.

Senator COHEN. Is it a requirement that you must spend the same amount of money?

Mr. GISHEY. It is the proposed changes that the U.S. Treasury would have in getting the money to the contract schools. For example, they are proposing that these moneys be spent equally in the four quarters. However, considering how the schools are run, the startup costs are heavy up front. Therefore, why spend an equal amount in the summer when school is not in session as opposed to maybe in the fall?

Senator COHEN. I do not know the reason for it. Perhaps we will find out later today, but I suspect there may be a reaction to some other things that many members of the Congress including myself have been calling for in the field of procurement. That is, we find the hurry-up spending. This is where many agencies start to unload their budgets—in the last 3 weeks of the fiscal year--to purchase all sorts of things.

I think the danger in suggesting how they will spend the money and not having Congress take a look and say they did not spend $300,000 last year so, therefore, we will cut the budget by that amount is in trying to correct that abuse, and it is an abuse in our system. The danger is that we might try to effect an unofficial system of equalization because we are trying to correct many things. To say that you are going to spend money equally in four quarters does not really spend that money efficiently. It depends on how that money is appropriated.

For example, Congress and the others included sometimes contribute to the problem of hurry-up spending because we do not appropriate the money. Sometimes it is all the way through the year like we are doing right now. We may not have a budget until September. Hopefully it might be sooner, but maybe not until September. The agency or the people who are depending on those budgets do not know how to plan and cannot let the contracts and cannot do these things.

There have been attempts made to simply put an artificial limitation that nobody shall spend more than a certain percentage during the final quarter. That is not the answer. I do not know why this proposal has been made, but I think it is very important to bring this point out. When we then simply dictate a mandate, you spend the same money per quarter. That does not make a good deal of commonsense. We will look at that.

Mr. GISHEY. I think this is most important. The concerns that I expressed here to this committee and the recommendations that I put before you shall be communicated to other committees of Congress which effect Indian education policies and budgets. It is not just the Budget Committees and the Appropriations Committee and the House Education and Labor Committee.

This concludes my statement, and I thank you for the opportunity.

Senator COHEN. Your prepared statement will be included in the record at this point.

[The statement follows. Testimony resumes on p. 48.]

INDIAN EDUCATION POLICY FOR THE 80'S

TESTIMONY OF MR. LAURENCE GISHEY, EXECUTIVE DIRECTOR, NAVAJO DIVISION OF EDUCATION

Members of the Select Committee, it is an honor to have the opportunity to appear before you once again to speak to you about the needs of Indian people for a strong federal commitment to Indian Education. Indian people realize that education is essential to their survival both as individuals and as nations. We know that we must rely on a continued federal commitment to Indian education to secure the future of our children economically and culturally.

The federal commitment to educate Indian children was expressly stated in the treaty which the Navajo signed with the United States in 1868. It was expressly stated in the treaties which the United States made with many other Indian nations. It was implied in the settlements which the United States made with all Indian peoples. Indian peoples gave up a way of life which was familiar to them. They gave up their claims to the large tracts of land which had supported that way of life. In return, they obtained an expectation, a promise they thought, that the United States would provide them with the means of adjusting to their new situation and developing their own institutions and customs within that new situation. They would be provided with education so that they could learn the ways of the White Man and preserve and develop their own ways and customs as well.

The provision of education to Indian children has long been considered by Indian people as a trust responsibility of the United States government. We have heard that the Assistant Secretary of Interior for Indian Affairs disagrees. I do not want to argue over a word or phrase. I do want to make it very clear, however, that the understanding of the Navajo people is that the obligation of the United States government to meet the educational needs of Indian children arises out of the very heart of the relationship between Indian nations and the United States which was established by the signing of treaties and the settling of Indian tribes on reservations. Education is a legitimate expectation of Indian peoples when they look to the government of the United States.

The early history of the education of Indian children by the United States government too often involved a conscious attempt to separate the children from the language, culture and traditions of their parents. This effort, while often well intentioned, was a betrayal of the expectations of Indian people that by signing treaties with the United States they would be permitted to preserve their traditions and values within their reservations. Separation from family and cultural deprivation were hard on Indian children and contributed heavily to many of the social and cultural problems Indian people face today.

Fortunately, the United States government eventually realized that it could not build competent, educated individuals by requiring children to repudiate their culture and language or by alienating parents from the education of their children. This realization was a long time in coming. It received its strongest expression in the passage of the Indian Self-Determination Act and the Indian Education titles of Public Law 95-561. These laws were enacted less than 10 years ago. Together they established an official United States policy in favor of Indian control of Indian programs and local Indian control of local schools. They committed the United States to a policy of consultation with Indian tribes and Indian people about the education of their children. They committed the United States to an education policy in which the policies and goals of Indian tribes and Indian people would be central to all Indian education decisions of the federal government. This commitment, so recently made, is already being seriously eroded.

Many of the decisions which the Bureau of Indian Affairs and the Department of Interior have made about the implementation of the Self-Determination Act and Public Law 95-561 have occurred either without consultation with Indian tribes and communities or contrary to the clearly expressed wishes of these peoples. Many more decisions appear to be being made by the present Administration which do not even attempt to take account of the wishes of the Indian people affected.

Many examples the Administration thwarting local Indian initiative can be found in the implementation of P.L. 95-561. The Indian Student Equalization Formula (ISEF) developed under that law has been found by experience to favor large boarding schools over smaller schools or day schools. The allowance for boarding is generous. The allowance for transportation is totally inadequate, especially when that transportation must be over the unimproved dirt roads of the Navajo Nation. The small school allowance is too small, and has an arbitrary cut off point of 100 students. The effect of isolation is not compensated for. This means that the formula militates against small community schools scattered among the places where the Navajo people actually live. Indeed, some schools in the Navajo Nation have remained as boarding facilities in order to break even. During the past fiscal year, the dollars paid per weighted student unit under ISEF and the dollars paid per student mile traveled were decreased. Costs of educating Navajo children and transporting them to and from school have definitely not decreased.

Local Indian school boards, which P.L. 95-561 establishes to provide community control of BIA schools, have been denied many of the decision-making powers which they need to direct these schools. Their personnel decisions are subject to review by the Agency Superintendent. In fact, an Agency Superintendent for Education in the Navajo Nation was recently quoted by a local newspaper as calling the involvement of an Indian school board in the decision whether to fire a principal "interference" by the board! In setting financial policy, local boards of BIA schools are subject to three different personnel systems for their professional and non-professional personnel. It is not uncommon for a local board to be forced by the personnel system to approve higher compensation for a bus driver or janitor with seniority than for a teacher. Local boards of BIA schools are subject to personnel ceilings and travel ceilings. In some instances boards have been short of teachers, with money to pay for a teacher, but an artificial personnel ceiling has prohibited them from hiring. Local boards of BIA schools should be able to utilize carry-over funds. In short, these local boards should be permitted to make policy and run their schools with the funds available without running afoul of inappropriate, centrally determined rules.

One of the most sensitive issues in school policy is the question of what kinds of schools should be built and where they should be located. Questions of small community schools, large centrally located schools, boarding schools or day schools properly belong in the hands of the Indian people who must live with the results of these decisions. This is an area where consultation of the most sensitive sort, and genuine deference to the wishes of Indian people is essential.

The experience of the Navajo people with consultation on school construction and school location belies the official federal commitment to consultation and Indian control. In 1980, a study conducted by the Interior Department's Facilities Construction and Operations Improvement Division (the "Zmuda Report"), proposed the closure of a number of BIA schools in the Navajo Nation, mostly boarding schools, and the conversion of others to day schools. The study was conducted without consultation with the Navajo Tribal government or the Navajo people. It was almost universally repudiated by the local BIA school personnel who reviewed it. The "study" totally failed to understand the most basic principles about geography and road conditions in the Navajo Nation. It was apparently predicated on the idea of the wholesale dumping of Navajo children on the public schools of the three states of Arizona, New Mexico and Utah. It anticipated bus routes that were georgraphical impossibilities. It did not reflect the wishes of the Navajo people for their children, nor even the realities affecting education in our land.

The "Zmuda Report" was followed by the Navajo Day School Cost Analysis, a report of the BIA's Office of Indian Education Programs. This study also failed to involve consultation with the Navajo Tribe or people. At least, however, it recognized the geography involved. That study, still not officially released by the BIA, anticipated a 30 year transition to day schools accompanied by the construciton of over $3 billion in paved roads! Once again, the size and location of schools was proposed without consultation. The assumption that boarding schools are always inappropriate was made without reference to the wishes or circumstances of the Navajo people, many of whom live in isolated hogans without electricity or running water, and with no place where a child may sit and study.

While the Navajo Tribe was awaiting the official release of the Navajo Day School Cost Analysis, we came upon information that the Facilities Construction and Operations Improvement Office in Albuquerque had developed plans and made appropriation and renovation recommendations to phase out at least 15 education facilities in the Navajo Nation between now and 1986. Quite honestly, the first work of this plan was leaked to us from unofficial sources. Inquiry by the Navajo Division of Education revealed that the plans had been discussed with BIA agency education superintendents (each learning about the plans for his agency only). They had not been discussed with the Navajo Tribe. To this day, Facilities Construction and Operations Improvement has not discussed its recommendations with the Navajo Tribe. Nor have any of the local school boards affected been consulted. The plans appear to have been made without the involvement of the BIA's own Office of Indian Education Programs.

The plan, if implemented would dump many Navajo school children on public school systems that are not prepared to take them. It would result in many others failing to attend school at all. It would thwart the educational goals of the Navajo Nation and the local communities within the Nation. It is frankly shocking that a plan with such a serious impact on the Navajo Nation could be so far along in its developmental stage without the knowledge or involvement of the Navajo Nation or the Navajo people. I hope that this committee will do everything in its power to assure that neither this plan, nor any other plan developed without the consultation of the Navajo people is permitted by the United States Congress to take effect. Indeed, I would hope that Congress will seriously consider placing the Facilities Construction and Operations Improvement Division back under the BIA, when hopefully it will be easier for us to keep an eye on it.

Another area in which consultation and sensitivity to community needs have been lacking is in the implementation of the Self-Determination Act. I realize that this committee is planning to hold a separate hearing on the proposed revisions to the rules implementing Public Law 93-638. I want to make clear at this time, however, that both the Navajo Nation and the local contract schools within the Nation have found the process of consultation in the development of these rules to be totally deficient.

The original draft of the new rules were drafted in a week which was an obviously hasty and inadequate effort. After the decision to change from contracts to grants had been made and after the draft was written, Indian Tribes were invited for "consultation". At first we were given less than a week to respond to the entire lengthy draft. Then a meeting was held by the BIA for the tribe and local contractors. At that meeting may serious objections to the regulations were raised which were never answered.

Several months later, at an education conference in Flagstaff, Arizona we learned from a BIA official that changes had been made in the draft. A copy of the new draft and an opportunity to comment on it before it was published in the

Federal Register were requested. We were told it was unlikely we would receive a draft and that no additional comment was being sought before publication. We then requested any written comments or explanations of the proposed rules which would answer questions about the effect of the rule change on tribal and local programs. We were told that there was no commentary nor any plan to address such questions prior to publication. Through unofficial sources we have obtained a later draft of the proposed regulations, which we are reviewing. Again, according to unofficial sources the draft we have is not the final draft. In sum, I object to this kind of process which makes a mockery of the idea of consultation.

Local, community-controlled schools, which operate under P.L. 93-638 contracts, experience many unnecessary difficulties in running programs under the law. For example, by a decision of the U.S. Treasury, local schools are supposed to have money on hand to cover no more than 3 or 4 days needs. This means that a new request for funds must be forwarded to the Treasury each pay period. If the funds do not arrive in time, schools must borrow to meet payroll. This procedure is supposed to save the Treasury a little money by allowing them to hang onto the funds longer. But it costs money to local schools. Our contract schools were recently told that they can no longer forward their requests for funds directly to the Treasury. They must send them to the BIA Education Office in Gallup, New Mexico, first. This means that if the schools play by the rules, it is virtually impossible for them to receive their money in time.

The Self-Determination Act provides that local contractors should receive resources for operating their programs equal to those available to the BIA for running the programs directly. In fact, it is rare for a contract school to receive anywhere near the value of resources available to the BIA to run its schools. Indirect costs of running these schools are almost always funded at below the Bureau's level. Resources available to the BIA from other parts of the government, or as a consequence of being a governmental agency, are rarely figured into the total. For example, contract schools must meet the hefty cost of insurance. The BIA does not have this expense. Yet no adjustment is made for this additional cost. As a result, most contract schools must stretch their ISEP money farther than a BIA-operated school of similar size and composition.

Contract Schools have difficulty in participating in the School Lunch Program of the Department of Agriculture. Since our community boards fully recognize the importance of an adequate diet to the performance of the students, and since a high proportion of the students are poor, the boards are often required to meet the cost of student meals out of their operations budget.

What these many concerns that I have raised suggest is that federal education policies affecting BIA schools and contract schools are not being made with a real concern for the needs and wishes of the community or of the tribal government affected. It is clear from both the Self-Determination Act and P.L. 95-561 that Congress intended a concern for community and tribal government affected. It is clear from both the Self-Determination Act and P.L. 95-561 that Congress intended a concern for community and tribal wishes to be at the heart of the enforcement of these laws. Perhaps it is time for a thorough Congressional investigation of the implementation of these laws, looking at all departments and agencies within the federal government which are involved in any way, and all funds involved in any way to see if the intent of Congress is being carried out.

There is one area where a decision made by Congress has had a very harmful impact on Indian education. This is the decision to change the start of the fiscal year form July to October. For programs outside education this requires adjusting the budget year. Schools, however, cannot adjust their budget year. Schools begin to operate in late August or early September. They go until late May or early June. Ideally, they should know in April or May how much money they will have to operate for the coming year. They need to know no later than July if they are to be able to hire faculty for the coming year. It is difficult enough for any school to find out its final amount of federal dollars in October or November. For public schools on Indian reservations receiving significant amounts of Impact Aid as well as supplemental funds, and for BIA-funded schools (contract or BIA-operated) receiving all of their funds from federal sources it is a disaster. When, as happened this past year, Congress is late in enacting an appropriations bill, the disaster is even greater. In some educational programs within the BIA this year's advices of allotment were not received until April of 1982! Schools had to borrow. Their planning is totally disrupted. Even with "continuing resolutions", they cannot determine what their budget for the year will be. Uncertainty of funds encourages the most competent faculty members to look for greener pastures. As I stated above, even October is too late to be receiving final confirmation of the school year budget. Title IV is the only program I am aware of that avoids this problem. It is forward funded. The appropriation made one year is spent the next. Either forward funding or a special fiscal year for education is a critical need of Indian schools, since they depend so heavily on federal money.

In addition to the concerns I have raised above, there are some additional federal educational programs which are important to Indian education. I understand that this committee is considering whether to reauthorize the Title IV program. This is an excellent piece of legislation. As I stated, its forward funding makes it one federal educational program where the money arrives on time. All schools which participate in this program in the Navajo Nation praise the law and its administration by the Department of Education. It is my sincere hope that you will reauthorize this program, fund it at its present level and retain it where it is, in the Department of Education.

The Title VII program, the Bilingual Education Act, is also in need of reauthorization and appropriation. I would encourage you to reauthorize this program. However, I would also ask you to look into some of the assumptions upon which the program is currently administered. Their present administration does not appear to have a sensitivity to the issue of bilingual/bicultural education. We hear the program generally described as a means of easing the transition of non-English speaking school children to the exclusive use of the English language. The program is available only for the first three grades. It is available to help non-English speaking children while they are learning English. As with many Indian nations, the Navajo Nation looks at bilingualism and biculturalism quite differently. It is important to us that our language and culture are preserved and transmitted to our children. An acceptable program of bilingual and bicultural education for the Navajo Nation involves not only assisting Navajo-speaking children to speak English, but assisting all Navajo children to speak and write Navajo. The present administration of the Title VII program is at odds with this goal. I would encourage you to seriously consider some language in this act to assure that it supports true bilingualism and biculturalism. I would also ask you to assure that in the planned reorganization of the administration of this program some centers or "supercenters" are authorized exclusively for Indian language since these languages too often receive insufficient consideration when they must share a program with speakers of more dominant minority languages, such as Spanish.

I have testified before you earlier this year concerning the critical need to continue the Impact Aid program at no less than its present level of funding. I will not repeat that testimony here. I merely remind you that this program is critical to the operation of public schools on Indian reservations and that most of the schools receiving this money on Indian reservations have no other way of raising comparable school revenues.

The whole area of school construction on Indian reservations needs a serious look and a major increase of funds. As I testified to you in an earlier hearing, during the time when there were funds available under the Impact Aid construction law for school construction, school districts on Indian reservations were shortchanged in favor of the military. About the time that the needs of Indian school districts were recognized, the funds started drying up. There remains a critical need for construction and major repair of both public schools and BIA-funded schools in the Navajo Nation. P.L. 95-815 and the school construction provisions of P.L. 93-638 (Self-Determination Act), as amended, need to be adequately funded. We have schools that are literally falling down, schools in portable buildings, schools that are flooded with mud every time it rains, and no money to rebuild them. I would ask you to take a serious look at every law which authorizes construction of public or BIA schools on or near Indian reservations. I realize it is probably beyond hope that these laws will be funded this year. I would encourage you, however, to now begin planning a 5 to 10 year construction program under these laws, with funding recommendations.

In my earlier appearance before you I also discussed some of our concerns with the Johnson O'Malley program. This is a valuable program. It is marred, however, by the red tape that often accompanies its administration, by the late arrival of funds, and the general air of financial uncertainty that often accompanies the program. A great confusion was caused by the decision late in the budget deliberations to exclude BIA-funded contract schools from coverage under the law. Since the school year had already started and since the change was not anticipated, many schools had spent money in anticipation of qualifying for Johnson O'Malley. They were caught short through no fault of their own. This is particularly unfair, since the assumption which led to their exclusion, namely that the ISEF formula provides for the same needs as the Johnson O'Malley program is clearly wrong in fact, even if it may be correct in theory. I continue to hope that these schools can be re-instated in the Johnson O'Malley program.

BIA-funded schools are also suffering under the interpretation of another federal law, the Education Consolidation and Improvement Act, P.L. 97-35. This law consolidates many supplementary federal programs into block grants and turns their administration over to the states. Provision for the BIA to receive some of these funds under an earlier draft of the law were deleted before its final passage. I believe that it was anticipated that all schools receiving the categorical funds prior to the passage of P.L. 97-35 would receive them from the states to which the block grants were given. However, one of our contract schools has been informed by the State of New Mexico, that as a BIA-funded school it is not eligible for these funds. Clearly this law needs to be clarified or amended. These schools, many of which must operate on fewer funds per student than state public schools, with greater expenses, cannot afford to be arbitrarily cut out of the block grant funds.

Finally, I would urge you to communicate these concerns and your own conclusions to other committees of Congress which are making decisions affecting Indian education. The budget committees need to be aware of how their decisions are affecting Indian education. Likewise the appropriations committees. The House Education and Labor Committee needs to make a similar effort in the House and needs to be informed of the matters you are considering here. I often fear that the concerns expressed to one committee of Congress may not receive sufficient circulation. This is particularly important in regard to the budget committees, since there is no specific subcommittee to consider Indian concerns in those committees and since our situation is often not understood by Congressmen who have not been dealing with it. We are all learning that budget is policy. I hope that you will carry the concerns of Indian people for the education of their children to every part of Congress where they need to be heard.

RECOMMENDATIONS

1. Review and investigate the implementation of the Indian Self-Determination Act and Public Law 95-561 to determine if intent of Congress to encourage Indian tribal and community control of Indian education policy and programs is being realized by the federal agencies involved in administering the programs (including such related agencies as the Department of the Treasury). This review should include a GAO audit of all funds involved in or affecting programs under these laws.

2. Assure that funding is made available for P.L. 93-638 contracts in education which covers the full value of assets available to the BIA to directly run the education programs, including "indirect" assets such as the government's ability to self-insure, and assets available in the form of services from other governmental agencies.

3. Return the Facilities Construction and Operations Improvement Division to the direct control of the BIA and require the division to observe the Congressional requirement of consultation with Indian tribes and communities in any decisions affecting Indian education. Facilities construction and improvement decisions should reflect the needs and wishes of Indian tribes and communities, not the expediencies of the Division.

4. Require the BIA to give decisive consideration to the needs and wishes of Indian tribes and communities in developing regulations implementing the Indian Self-Determination Act and P.L. 95-561. This should involve significant and effective consultation with Tribes before and during the drafting of these laws. A one-time meeting to "inform" Indian tribes of what the Bureau is planning to do is not enough.

5. Develop a mechanism for the funding of Indian education programs which parallels the budget year of schools. This could be done by forward funding these programs or by adjusting the fiscal year for education programs to a June or July starting date.

6. Develop a 5 to 10 year plan for funding construction of schools coordinated with public schools on or near Indian reservations. This would include construction under P.L. 95-815, Section "277" construction under the Self-Determination Act, and construction and major repair of BIA-funded schools.

7. Continue the Impact Aid program in the Department of Education and at no less than its present level.

8. Reauthorize the Title IV program within the Department of Education Office of Indian Education Programs and at least its present level.

9. Reauthorize the Title VII, Bilingual Education Act program with promises to allow funds to be used to encourage preservation of bilingualism and biculturalism of Indian school children. It should not be used merely to provide a transition into English. In addition, this program should be implemented with centers or "supercenters" specifically for Indian languages.

10. Either amend or provide interpretation of the law providing block grants for education to the states so that BIA-funded schools may participate in these programs.

11. There is currently a cabinet level task force making administration policy for Indian programs which to this date has not consulted with Indian Tribes. Congress should do what it can to direct that this policy-making process be conducted in consultation with Indian tribes and affected groups.

12. The Johnson O'Malley program should be continued at its present level of funding and reduce the red tape plaguing this program and see that the money gets to the schools on time.

13. Changes should be made in the way the Treasury Department moves money to Indian schools. The process should be simpler for the schools and should get the money there on time. Schools should not be required to spend an allocation equally

over all four quarters of the fiscal year since their expenses tend to be heavy at the beginning of the school year.

14. Concerns expressed to this committee and recommendations of this committee should be communicated to other committees of Congress which affect Indian education policy such as the budget committees, the appropriations committees, and the House Education and Labor Committee.

◒ K-8 EXPANSION ⊕ DORM PHASE-OUT ⊖ BORDERTOWN DORM ◑ PHASE-OUT ◐ CONSOLIDATE

AP	SITE	1980 1981	82 $	83 $	84 $	85 $	86 $	DISPOSITION	SITE NAME
1	N35-21	$1,086,794	-0-	955,720	-0-	1,200,000	-0-	◑	MANY FARMS
2	N36-11	1,117,660	-0-	-0-	-0-	-0-	930,000	⊕	HUNTER'S POINT
3	N34-20	2,236,000	-0-	403,150	-0-	911,794	-0-	◑	WINGATE E.S.
4	N33-08	1,320,008	-0-	-0-	-0-	-0-	-0-	◑	KAYENTA
5	N35-10	171,000	-0-	-0-	2,336,216	-0-	-0-	◒	PINON
6	N32-05	394,594	-0-	-0-	-0-	-0-	-0-	◒	COVE
7	N34-25	-0-	-0-	3,037,650	-0-	-0-	-0-	◒	CANONCITO
8	N36-25	1,078,980	-0-	-0-	-0-	-0-	-0-	⊖	WINSLOW DORM
9	N33-19	(DORMS FI&R	IN HOUSE)	1,374,240	-0-	3,850,000	2,582,000		TUBA BOARDING
10	N36-24	-0-	681,309	-0-	-0-	-0-	-0-		WIDE RUINS
11	N35-11	425,544	1,061,364	-0-	-0-	-0-	-0-		ROCK POINT
12	N33-04	2,920,502	-0-	-0-	-0-	-0-	-0-		DENNEHOTSO
13	N34-01	553,560	-0-	1,165,795	1,200,000	-0-	-0-	◒	CROWNPOINT HDQ
14	N36-05	577,671	-0-	-0-	-0-	644,671	-0-	⊕	CRYSTAL
15	N32-10	-0-	1,071,277	-0-	1,083,103	-0-	-0-		TEEC NOS POS
16	N33-09	-0-	-0-	1,364,652	-0-	-0-	250,000		LEUPP
17	N36-06	-0-	-0-	1,215,785	-0-	1,181,658	-0-	◒	DILCON
18	N35-06	-0-	-0-	851,675	-0-	-0-	925,000	◑	LOW MOUNTAIN
19	N33-01	-0-	-0-	-0-	-0-	1,725,700	2,200,000		TUBA CITY HDQ
20	N32-01	-0-	-0-	-0-	3,287,639	-0-	-0-		SHIPROCK HDQ
21	N36-14	-0-	-0-	-0-	-0-	-0-	-0-		KINLICHEE
22	N32-13	-0-	-0-	PHASE OUT	& CLOSE	-0-	-0-	◑	SHIPROCK BOARDING
23	N32-07				NEW FACILITY			⊖	RED ROCK
24	N35-09	-0-	-0-	426,642	-0-	-0-	-0-	◒	NAZLINI
25	N34-02	-0-	-0-	-0-	-0-	-0-	1,590,374		BACA
26	N32-06	294,819	-0-	-0-	-0-	-0-	-0-	◒	NENAHNEZAD
27	N34-12	-0-	-0-	-0-	1,153,786	-0-	-0-		MARIANO LAKE
28	N36-19	-0-	-0-	-0-	340,000	-0-	-0-	◑	SEBA DELKAI
29	N35-07	-0-	1,570,236	-0-	-0-	-0-	-0-	◒	LUKACHUKAI
30	N36-18	-0-	-0-	PHASE OUT	& CLOSE	-0-	-0-	◐	PINE SPRINGS
31	N34-17	-0-	-0-	-0-	-0-	-0-	1,575,224		THOREAU
32	N33-22	2,274.20	1,94[illegible],625	-0-	-0-	-0-	-0-		GRAY HILLS H.S.
33	N35-01	-0-	-0-	-0-	-0-	750,000	750,000		CHINLE HDQ
34	N34-05	-0-	-0-	-0-	-0-	2,185.737	-0-	◒	CHIL-CHIL-TAH
35	N33-07	742,550	-0-	915,640	-0-	-0-	-0-		UPPER KAIBETO
36	N35-12	-0-	-0-	1,070,041	-0-	750,000	-0-		ROUGH ROCK
37	N34-21	1,051,000	-0-	-0-	3,015,431	-0-	1,500,000		WINGATE H.S.
	TOTALS	12,701,102	7,318,455	12,355,348	12,416,175	13,199,650	11,038,430		

Proposals of Facilities Construction and Operations Improvement Division
For Navajo Nation Schools

NAVAJO FIVE YEAR PLAN UPDATED: 4/20/82

AP	SITE	1980 1981	82 $	83 $	84 $	85 $	86 $	DISPO-SITION	SITE NAME
38	N32-03	-0-	-0-	-0-	-0-	328,779	-0-		AZTEC
39	N33-16	-0-	-0-	-0-	2,041,212	-0-	-0-		SHONTO
40	N35-04	731,500	-0-	568,800	-0-	-0-	-0-	◒	COTTONWOOD
41	N36-09	1,138,567	-0-	-0-	-0-	-0-	-0-	⊕	HOLBROOK DORM
42	N32-02	-0-	-0-	-0-	-0-	1,168,874	-0-		ANETH
43	N34-23	-0-	-0-	-0-	500,000	-0-	-0-		CROWNPOINT BRDG.
44	N35-20	-0-	-0-	-0-	-0-	2,400,000	2,000,000	◑	CHINLE BOARDING
45	N32-09	-0-	-0-	-0-	-0-	1,542,660	-0-		SANOSTEE
46	N33-13	2,788,819	-0-	-0-	-0-	-0-	1,370,000	◒	RED LAKE
47	N36-20	-0-	-0-	-0-	-0-	240,600	213,416	⊕	SNOWFLAKE DORM
48	N36-08	-0-	-0-	750,000	2,451,970	-0-	-0-		GREASEWOOD
49	N34-06	-0-	-0-	PHASE OUT - CLOSE	-0-	208,974	-0-	◑	HUERFANO DORM
50	N32-11	-0-	-0-	-0-	-0-	-0-	975,313	◒	TOADALENA
51	N33-15		1,605,975	-0-	-0-	-0-	1,370,000	◒	ROCKY RIDGE
52	N36-22	-0-		PHASE OUT - CLOSE		240,600	213,416	◑	TOHATCHI
53	N34-03	-0-	2,956,123	-0-	-0-	-0-	-0-	◒	BORREGO PASS
54	N32-04	-0-	-0-	-0-	-0-	73,000	-0-		BECLABITO
55	N33-02	-0-	1,395,965	-0-	1,397,300	-0-	-0-	◒	CHILCHINBETO
56	N35-22	-0-	-0-	-0-	-0-	365,000	-0-		ROUGH ROCK H.S.
	UTILITIES VARIOUS SITES			1,007,500	(NEW CONSTRUCTION)			◒	TORREON
58	N33-05	-0-	-0-	-0-	-0-	-0-	379,336	⊕	FLAGSTAFF DORM
59	N36-03	-0-	-0-	-0-	-0-	584,200	455,080	⊕	CHUSKA
60	N33-11			NEW CONSTRUCTION				◒	NAVAJO MTN.
61	N36-27	-0-	-0-	-0-	-0-	-0-	887,507	◑	TOYEI
62	N34-27	-0-	-0-	-0-	-0-	-0-	-0-		ALAMO
63	N33-14	-0-	-0-	-0-	-0-	173,500	-0-		RICHFIELD DORM
64	N34-10	-0-	-0-	1,333,224	-0-	-0-	-0-		LAKE VALLEY
65	N34-15	-0-	-0-	1,732,600	-0-	-0-	-0-	◒	PUEBLO PINTADO
66	N36-01	-0-	-0-	-0-	3,096,500	-0-	-0-		FT DEF. HDQ
68	N34-13	-0-	-0-	984,388	-0-	-0-	-0-	◒	OJO ENCINO
69	N34-24	-0-	-0-	-0-	-0-	1,289,557	-0-		DISNEYLAND
71	N34-26	-0-	-0-	PHASE OUT - CLOSE	-0-	-0-	305,000	◑	MAGDALENA DORM
72	N34-04	-0-	-0-	-0-	-0-	-0-	1,650,000	◑	BREADSPRING
73	N34-16	-0-	-0-	-0-	-0-	-0-	105,000		STANDING ROCK
74	N34-08	-0-	-0-	-0-	-0-	-0-	126,000	◑	JONES RANCH
MINOR RPR. PGM.		-0-	1,235,000	1,235,000	1,235,000	1,235,000	1,235,000		
HOUSING, VARIOUS SITES					1,050,000				
TOTALS		1,870,067	8,746,882	5,603,288	11,772,549	9,227,670	9,800,068		

TOTAL FI&R: 1980-81 ---- $14,571,160
'82 ---- 16,065,337
'83 ---- 18,384,278
'84 ---- 24,188,724
'85 ---- 22,427,320
'86 ---- 20,838,498

PROBABLE TOTAL FI&R WORK:
$133,946,624

Senator Cohen. Thank you.

Does anyone else have a statement?

Let me see if I can summarize for a moment and make it clear to me what we have heard from the witnesses who testified.

No. 1, you are satisfied with the Federal obligation to the Indian tribes; and No. 2, the Federal obligation includes the obligation to provide educational opportunities for the Indian students. No. 3, is that any proposal, whether it is off-reservation or boarding schools to be closed, or a transfer of title IV to BIA has to be approached because you have not been consulted.

Essentially, is that the consensus of the group that is meeting here?

Mr. Ramirez. Yes.

Senator Cohen. Suppose the Department of Education is abolished. What would you recommend then? What if the administration decided it is to be abolished? What would be your recommendation as far as title IV and where it should go, assuming they do not come to you and ask your advice?

Mr. Clements. Our recommendation in our statement is that if the Department of Education is done away with and the transfer would occur, whether we like it or not, we feel the full funding should go with the transfer to the Bureau of Indian Affairs.

Senator Cohen. Prior to the creation of the Department of Education, where was the program at that particular point? That is, prior to the creation of the Department of Education.

Mr. Clements It was in HEW.

Senator Cohen. Under the Office of Education?

Mr. Clements. Under the Office of Education within HEW.

Senator Cohen. It is not entirely clear what they are going to do, or revert to, as to the Office of Education or something similar, if in fact the Department of Education is abolished. I think your point is well taken. There should be some consultation before we take action. Frankly, I am not satisfied—I do not think any member of the committee has been satisfied—that we have had some real analysis done as to what the impact is going to be. For example, on the closing of schools, I am told that the needs of students in the various off-reservation boarding schools have been dwindling, and the population of the enrollment has been reduced. I am not sure whether that has come about as a result of the cut-back in the funds which in turn caused a reduction in enrollment. The reduction would be used as a justification for saying put it all back on the reservation schools, which you do not have.

So a lot of us, while we are not opposed—I must say that I am not opposed—to looking at changes if in fact changes have to be made, but we have to know exactly in what direction we are going and what we hope to achieve.

Last year, we had hearings where we were cutting out various programs such as the CETA program and those designed to put people to work. This is with the recognition that there would be an increase in child welfare assistance with a cutback in the welfare assistance budget.

What we are trying to find out is why do we make these proposals if they have not been thought clearly through to their logical conclusion.

I gather, from your testimony here, that you are going to be saddled not only with an increased school population, but have no schools in which to put them.

Mr. GISHEY. I would like to defer to my assistant on this. We are faced with a situation on closure of schools. I just looked at how many schools we have on the reservation. If these were to be closed, the side effects of unemployment and the economy would be so great that I feel that this committee should hear more about it. I would like to defer a little time to my assistant, Rosemary Zion, if I may.

Ms. ZION. We are facing a very critical problem both in consultation and in schools on the Navajo Reservation. We have found out about it largely unofficially. In 1980, there was a study done by the Facilities and Operations Improvement Division of converting the day schools on the Navajo Reservation. There has been a Navajo policy in favor of day schools where possible, but there are transportation problems which are really hard to envision unless you actually go out there and take a look at the roads that make it impossible. A large majority of the roads in the interior part of the reservation are gumbo dirt. They are often completely impassable. One mile of them could be like 20 miles of a paved road in terms of wear and tear on a bus and the possibility of getting through.

Many of the recommendations that were made in the study were completely impossible. Imagine a 20-mile bus romp over these roads. Every school that looked at the report rejected the conclusion that you could eliminate the boarding schools this way.

There was a study done by the BIA called the Navajo Day School Cost Analysis. It was also done without consultation with the tribe, but it did recognize that somewhere in the neighborhood of $3 billion in road construction was involved in going to a day school system.

About a month ago, we got hold of a document through several unofficial sources that showed the Facilities Construction and Operations Improvement Division in Albuquerque was making financial claims for the closure of about 18 BIA facilities on the Navajo Reservation. We heard nothing about this from any official sources. Checking with the Bureau, we found out that this had been done without any consultation with the Office of Indian Education programs.

The Facilities Improvement Division is now, I guess, a separate division under Interior. It is not directly under the Bureau any more. As far as I can tell, they have consulted with nobody within the Bureau of Education or within the Navajo Tribe, yet they had dollars on hand, with renovation costs planned, based on the idea that somewhere between 15 and 18 facilities would be phased out between now and 1986.

When I showed the document to someone in the Bureau, I was told it was inaccurate because it had been revised, and there was another document that we also had not seen. We got hold of that. We do have a copy. We will add that to our testimony.

Many of the assumptions being made are completely without knowledge of what the schools are like. One school that they propose to expand to a kindergarten through eighth grade is already kindergarten through eighth grade. They did not even know what kind of a school they wanted.

The total ignorance about how you would get to the proposed other schools that the children would go to and what the existing characteristics of the schools are is almost beyond belief. There are even plans to put a lot of money into renovating facilities that they plan to close by 1986. All of this would have been done without consultation with the tribe were it not for a unique document.

Senator COHEN. I do not want you to feel you are being singled out for this kind of governmental expertise. I recall when they were scheduled to close a major base in the State of Maine. They had to file an environmental impact statement. They looked at the statement and had the base located in the wrong part of the State. So it happens. I understand what you are saying.

Frankly, I do not know what we can do to get more consultation between the tribes that are affected and the BIA itself. I guess we do not have the BIA witnesses until tomorrow.

Hopefully, as a result of the record we are trying to establish today, we can get some answers to these questions. It is one thing—let's be candid about it—it is one thing to sit in the Office of Management and Budget and look at a computer and say this is what we have to do with the budget. We are going to punch these numbers. It is quite another thing to have to go out and travel to Arizona or to any other State and look at the reality of what you have to cope with. I think you have come up with two entirely different conclusions.

The fact of the matter is that these decisions are being made and driven by budgetary decisions. You can look at columns and add them up. What we come out with is what you are given and you find the rationale later. You are given a budgetary restriction, and you try to come up with a rationale and say if you do the following thing you can save. I think experience will show you cannot do the following things.

One question I have is the Johnson-O'Malley program. That program had been restricted to eliminate funding for contract schools. I think you indicated you wanted to see the funding of Johnson-O'Malley kept at the current level. I assume you still want that to exclude the contract schools.

Mr. RAMIREZ. I did not say that. We do not have any contract schools. We thought the contract schools should indeed have the opportunity to get the Johnson-O'Malley funds. We would also like to express our feeling that that should be increased because the tribes depend heavily on those programs.

Senator COHEN. Go ahead, Mr. Gishey.

Mr. GISHEY. The problem we had this year was based on last year's commitment to Johnson-O'Malley. The program was well into the fiscal year when the decision was made that Johnson-O'Malley would be excluded, yet they made commitments for the rest of the school year. Consequently, that created a lot of problems. However, in the long run, with all the different items being excluded from contract schools, I think Johnson-O'Malley is very important to the survival of contract schools, saying they should remain.

Senator COHEN. Thank you very much for appearing this morning and for your testimony. As I indicated earlier, your full reports and statements have already been included in the record, and they will be helpful to us. We will ask questions of the administration when they come tomorrow.

Our next panel of witnesses will include Mr. William Leap, the education director, National Congress of American Indians, Washington, D.C. We also have Frank Tenerio, secretary-treasurer of the All Indian Pueblo Council; Gerald Webster, associate director, United South and Eastern Tribes; and Edward T. Begay, president of the National Indian School Board Association, Albuquerque, N. Mex.

If you could please summarize your written statements, we can proceed, and I can ask a few questions before I have to leave. What I propose to do is recess the meeting at noon and then begin again at 2 this afternoon.

STATEMENT OF WILLIAM LEAP, EDUCATION DIRECTOR, NATIONAL CONGRESS OF AMERICAN INDIANS

Mr. LEAP. What I would like to do in the interest of time, Mr. Chairman, is make a few comments then turn the floor over to persons whose programs are affected.

I will go down the list of issues that were presented to all others to consider and try briefly to summarize the National Congress of American Indians' position and concern on the issues.

It is their Federal responsibility in Indian education to provide services to Indian education. You can attempt to discuss it any way that you want to. You can say it is not a trust responsibility. There is a long-standing commitment, and the Federal Government has been acting in terms of the long-standing commitment for as long as there have been solemn obligations and agreements between the Federal Government and the others.

As far as the BIA operation of elementary and secondary schools is concerned, we underscore the importance of the publication of the title XI standards. To expect any discussion of the BIA education in schooling without the standards is like discussing the New Federalism without a constitution. The Bureau's major difficulty, as we see it at NCAI. is that they are operating school programs without the kind of guidance that is needed to operate school programs. We suspect that if the standards were in place such proposals as the reorganization and the creation of new kinds of education offices would be unnecessary.

As far as the closing of the off-reservation boarding schools is concerned, NCAI sees this as a part of a larger apparent attempt to pull back from long-standing Federal commitments in education. We would include along with the proposed closings the proposed transfer of schools in Alaska to the State's authority, and we would include the recent proposal to take away the contract money which allows the travel school system to operate.

It goes without saying that NCAI is opposed to all of these kinds of maneuvers. It is not clear to us that tribes want to see these programs closed. We have not seen any justification to show that money will be saved because the students still have to be educated.

As far as the proposed reorganization is concerned, NCAI has serious concerns primarily because there has been no consultation, but even more seriously because we are not totally certain exactly how education would be operated under the new reorganized education administration system. For example, will the Washington, D.C., OIEP be the lead OIEP or one of five education offices, and line item authority? This needs to be clarified.

On the transfer of title IV, the National Congress came out most strongly in February in opposition to the proposed transfer of title IV. There is no plan we have seen that explains how the difference in eligibility criteria in title IV versus BIA will be reconciled. It is not clear to NCAI that any attempt to reconcile the two criteria will benefit Indian students. It is important for the select committee to remember that almost every tribe polled on the question to date is opposed to transfer, and why the maneuver should be discussed when the constituents to be served do not view it as a benefit escapes us.

On the question of the affects of impact aid, title IV, Johnson-O'Malley and the cuts, we simply ask who is to make up for the loss when the funds are taken away. The numbers of Indian schoolchildren grow daily. Those students still must be educated. Someone has to foot the bill.

I would like to simply conclude by reiterating the opening comment I made that the Federal responsibility in Indian education endures regardless of what is being done in the name of fiscal expediency.

Senator COHEN. Thank you very much.

Mr. Begay.

STATEMENT OF EDWARD T. BEGAY, PRESIDENT, NATIONAL INDIAN SCHOOL BOARD ASSOCIATION; ACCOMPANIED BY KURT BLUE DOG, COUNSEL; AND VERNER DUUS, FACILITATOR

Mr. BEGAY. I am addressing you as president of the recently formed National Indian School Board Association. Our association was recently chartered under the laws of the State of New Mexico and represents the Indian school boards and the Bureau and the contract and Indian controlled school boards nationwide.

Though we are not yet certain what kind of response we will ultimately receive from members, we are very hopeful that ours will be an organization that truly represents the hopes and dreams of grassroots Indian people for Indian education.

The purposes of this organization, as stated in the articles of incorporation, are to protect, maintain, and promote education of the American Indians as a Federal trust responsibility. No. 2 is to promote, to the fullest extent possible, quality educational opportunity for American Indian people. No. 3 is to assist member boards by providing training, technical assistance, and information sharing services for them. No. 4 is to maintain close working relationships with the American Indian tribes and national Indian organizations and the appropriate Federal and State agencies.

As you can see, our purposes are far-reaching and quite ambitious. We are certain that you will be hearing more from us.

As president of this organization, I would like to sincerely thank the Congress for the leadership role it has taken on behalf of Indian education. I know that Indian affairs have not always been a popular cause. During the 1970's, some very significant pieces of legislation were passed—Public Law 92-318, the Indian Education Act; Public Law 93-638, the Indian Self-Determination Act; and Public Law 95-471, the Control Community College Act. There also was Public Law 95-561, the Indian Education Amendments Act.

The governing policy of each of these laws was Indian control. Each law clearly states that intent. We firmly believe that this approach is the proper one and that positive results will be forthcoming to both the white man's way and the Indian's way. However, we must be given the opportunity to work. There needs to be a real commitment to the implementation of these laws. There needs to be a continuing oversight by congressional committees such as this one, because, frankly, we do not see a great commitment by the current administration to carry out either the intent or the letter of these laws.

I now wish to proceed by discussing some of the positions taken by our organization.

In response to the requests of the school board members, the National Indian School Board Association, on April 9, 1982, at a duly convened meeting in Albuquerque, N. Mex., unanimously enacted the following formal resolutions.

Resolution 82-101 is this. It reaffirms the strong convictions of the school boards that the Federal trust responsibility for Indian education is one of the products of the treatymaking process, which has been confirmed by clear congressional action. It calls upon the Congress to repudiate all attempts to abandon, disclaim, or otherwise lessen the Federal trust responsibility for Indian education, since such an abandonment would work to the detriment of American youth and ultimately to the detriment of all American Indian people.

Resolution 82-102 strongly urges the Congress to provide full and adequate funding levels for public schools educating Indian students and for public school construction under Public Laws 81-874 and 81-815; and that the formal administrative complaint mechanism in the impact aid laws be properly handled by and remain under the control of the Department of Education.

Resolution 82-103 provides that the National Indian School Board Association strongly opposes the BIA proposed change to the Public Law 93-638 contracting procedures absent a full investigation of all aspects of the Public Law 95-224 grant mechanism and an opportunity to comment meaningfully from the point of view of tribal contract schools.

Mr. Chairman, we have Resolution 82-104. That provides that the National Indian School Board Association demands that the BIA take immediate steps to come into compliance with the letter and spirit of Public Law 95-561 by promulgating appropriate educational standards for BIA schools.

Resolution 82-105 indicates the position of the National Indian School Board Association regarding BIA school closures. The association opposes any school closures or transfers to public schools which are not properly planned and endorsed by the affected Indian tribal governments and school boards. The association strongly recommends the BIA develop appropriate and acceptable consultation procedures to follow when school closures are being considered. Most importantly, all proposals for closures be stayed pending the development of such consultationn procedures.

Now 82–107 indicates that the association strongly opposes the proposed budget cut in title IV of the Indian Education Act, and that the National Indian School Board Association opposes the proposed transfer of title IV to the BIA.

Resolution 82–108 states the position of the National Indian School Board Association regarding bilingual education. It states that the membership of the association acknowledges title VII in its present form to be a valuable and necessary mechanism for educating Indian students; particularly the provisions at section 703(a)(1)(c), that recent proposals before Congress to alter title VII would seriously hinder tribal and school board efforts to achieve linguistic self-determination. The association also expresses its strongest support for congressional reauthorization of title VII in its present form.

The above-described resolutions are submitted as the central focus of the testimony of the National Indian School Board Association. Additionally we submit a copy of our charter which is on file with the State of New Mexico. These materials represent the clear and unanimous position of our member school boards.

We will be happy to respond to any questions you might have.

Now Mr. Chairman, also in light of that I would like to submit the testimony of the Navajo Area School Board Association.

Senator COHEN. Thank you very much. It will be included in the record at this point.

[The statement follows:]

PREPARED STATEMENT OF THE NAVAJO AREA SCHOOL BOARD ASSOCIATION

The preparation of testimony for such a hearing is difficult since there are many areas where issues exist on which we would very much appreciate the assistance of this Committee. We feel like we are in a vulnerable position. On the one hand, the Bureau of Indian Affairs is making policy statements which suggest it wishes to get out of the education business. We oppose this move and consider it to be an attempt to breach Treaty provisions which, in our case, were signed in 1868 and which forms the basis of a relationship of trust. These treaties have sometimes been blatantly violated, and we hope that Congress will not allow another period of disgrace to be written into American history.

On the other hand, the Bureau of Indian Affairs is making a mockery of Congress's last major piece of Indian education law, Public Law 95–561. We are a little worried that if we protest too loud, it will only encourage those who want to transfer educational responsibilities away from the federal government. It is a long-range goal of the Navajo Tribe to establish a tribal educational system. Within the federal government, Public Law 93–638 and Public Law 95–561 would allow such a transfer; however, a similar transfer would probably never be possible under the states.

We are caught in a dilemma. Our hope is that Congress through this Senate Committee will become concerned enough to demand compliance. Some violations are obvious violations of the letter of the law, such as the failure to publish academic and dormitory standards. Other violations are more subtle in nature and violate the intent; such as the imposition of the federal personnel ceiling on the newly established contract education system. This ceiling prevents school boards from buying the personnel services they need even though they might have funds for it. It is time such shenanigans were stopped.

Lawsuits are possible and very likely. They are also very undesirable from the boards' point of view and will be used only as a last resort. Congressional oversight seems a far more desirable means of causing the necessary changes. It is your law that is being violated. We are requesting a thorough examination in connection with the oversight authority of this Committee.

Some of us were listening a short while ago to a speech by the State Superintendent of the State of Arizona. She was talking about her experience testifying at Appropriations Hearings here in Washington. She reminded us that these days budget is an item which is inseparable from educational philosophy and policy. We know that the Senate Select Committee on Indian Affairs concerns itself with policy and that other committees are to be concerned with budget and appropriations; however, following the rationale of the Arizona State Superintendent, we want to focus on one matter of the budget which definitely is a policy concern—the school board training fund. In the fiscal year 1982 budget process every single budget proposed by the administration zeroed out the school board training fund. We are very indebted to Congress for having restored funding to this line item. In the fiscal year 1983 budget that we have seen, the school board training fund is cut 60 percent with the apparent rationale that school board training is a one shot deal; that somehow a three day training session is going to prepare non-English speaking school board members to assume considerable responsibilities over education programs. This is simply not how it works. We have been involved as an Association in training our board membership for many years. Since each individual school by law has a school board, the number of school boards in the Navajo Nation is quite comparable to nearby states. Our problems in carrying out the training function, however, are considerably more than in the state systems.

First of all, every applicable concept in the statutes, regulations, and the considerable Bureau of Indian Affairs manual must be interpreted into Navajo.

Secondly, school boards must deal with three different educational personnel systems operating in each of their schools. These are the new contract education system established under 561, regular Civil Service now referred to as status quo employees, and wage grade employees who have escaped the contract educational system through what we regard as a ludicrous solicitor's opinion and policy decision. Old time bureaucrats of 20 years do not even understand all the rights and ramifications of the overalapping of these systems and we can testify that there is a great need for further training of not just school board members but also key Bureau officials such as principals and school superintendents.

Many bureau officials are extremely threatened by an effective school board training program. Such a program does not rely on holding a two or three day workshop and then never returning. An effective training program is one where the trainers can often be on site at school board meetings and be available for assistance as issues come up. It is one thing to hear and even understand a concept delivered in a training session concerning the statutory authority of a school board: it is quite another to put it into practice. School boards, prior to Public Law 95-561, were advisory bodies. The Navajo people and the Bureau of Indian Affairs both tend to be rather conservative when it comes to making fundamental changes. The old pattern of the principal telling the school board what he was going to do and the school board rubber-stamping the action does not die easily; however, as Congress wisely recognized, that was a system that did not work. The importance of local Indian control of education was recognized by Congress and made into law. The only way that that intention is going to become a reality is through powerful local school boards. School boards can only attain this level if school board training programs are continued so that the boards receive accurate information from outside the Bureau of Indian Affairs and on site support and assistance from outside the Bureau of Indian Affairs. It is frankly an impossibility in most cases to have the Bureau entrusted with school board training activities as they would have to be if the school board categorical fund is reduced or done away with. We are urging that this Committee strongly recommend full or even increased funding for school board training.

Thank you for your attention and your support.

Senator COHEN. Mr. Tenerio, you may proceed.

STATEMENT OF FRANK TENERIO, SECRETARY-TREASURER, ALL INDIAN PUEBLO COUNCIL, APPEARING FOR DELFIN J. LOVATO, CHAIRMAN

Mr. TENERIO. I am Secretary-Treasurer of the Pueblo Council representing some of the Pueblo tribes in New Mexico. This testimony was suppose to be presented by the chairman who is Mr. Lovato. I apologize, because he is not here but we have submitted for the record the required number of written statements. I will highlight those written statements and I will stay within the allotted time. I hope the written testimony that we have spent quite a bit of time on will be looked over carefully. I think you will find very interesting testimony in the statement that we have submitted.

We consider this an exercise that impacts on the very essence of what will become of us in the future. I do not think that there is any need to go into a long oration in regard to what education really is; it is a foundation that we set which will carry the children through life. The non-Indian population has been involved in education for over 300 years: that is since the program began on Plymouth Rock. The Indian was given only 50 years to get into step. This is known by the general population to be an impossible task.

The things that we were using to make those gains have been pulled out from under us. We are left almost rudderless on a vehicle or a ship called education: this is with the tide taking its toll. It is going just where it wants to go and where it can go. The captain, who is BIA is nowhere around. He is without a rudder also. He threw it away himself.

The BIA reorganization is uppermost in our minds because of the absence of the consultation of Indians and the arbitrary actions that have been proposed and taken, while no information is available as to the cost savings and the effect on present programs.

Now, to the extent of the ramifications of this section, as far as we know, they are unknown to the Bureau of Indian Affairs, and more importantly, the basis for a position or a decision for BIA management and tribal comprehension. This is obviously absent. We recommend a 1 year delay of the BIA reorganization.

All Indian Pueblo Council reaffirms the previous position opposing the transfer of title 4, Department of Education to the BIA. We go indepth to explain why in this statement.

Senator COHEN. Did you communicate that to BIA?

Mr. TENERIO. Yes; we have had a running dialog. This was after the lack of action on their part and some of the things that were referred to.

Senator COHEN. It is only after they make a proposal that there is any line of communication opened up, not before.

Mr. TENERIO. Repeatedly, we asked for reasons and we asked for ample time to come to an understanding. It seems that we cannot get anywhere with that dialog.

Now on the issue that is uppermost. As far as the news media is concerned, it is a circus that has been going on between BIA and the SPI institution in Albuquerque. The Pueblo Council vigorously opposes the closure of the Southwest Indian Polytechnic Institute. That is the only vocational institution that has addressed their needs as far as the Indian children are concerned. To be competitive on the vocational market, and to take that away is a wrong that can never be righted.

They are talking about saving money. They are talking about facilities that perhaps will be served by a regionalization concept.

The Indian people know that if they go ahead with this move that they will take away the very livelihood of those people that want to go into this institution. We are very definitely opposed to this closure.

We cite a little history as far as that particular school is concerned. About 20 years ago, or longer, we were faced with the closure of the Santa Fe Indian school and more or less turned it into a elite art school.

Someone said that it would serve the purposes, at that time, to perpetuate the Indian arts. Compromises were made at the time to build a school at Albuquerque so that the Pueblo children could finally be in an institution that would be indicative of the education concerns.

Senator COHEN. The staff advised me that there is a temporary restraining order issued yesterday in the district court to prevent the school from being closed. SIPI had gotten this.

Mr. TENERIO. In other words, it will remain open for a while?

Senator COHEN. Temporarily, at least. There is a court order saying that you have a temporary restraining order restraining the BIA from shutting it down until further proceedings have taken place. If it goes through a preliminary injunction to a permanent injunction, if in fact that is what happens, there will be another hearing that will take place on May 24 to see whether or not the temporary restraining order ought to be expanded into a preliminary injunction.

Mr. TENERIO. Is it not ironic that we have to resort to measures of that nature to address a proven need? Without question, that is a need that glares us in the face. In spite of this, we have to do all kinds of legal acrobatics, that should be in the uppermost of our minds. This is a logical thing to do. To continue this would be worthwhile.

I have seen changes in my life as far as representing Indians. At no time have I seen things the way they are now. I do not know whether it is the weather or what it is, but God Almighty, things are really falling into bad fortune and misfortune with regard to the Indian people in a way that it never has happened before. The small gains that were made from the Nixon era have more or less gone up in smoke. I do not believe that we have the kind of leadership on the scene that will permit such a thing.

I would concede that perhaps something of this nature would happen if we had people that did not care. We are surrounded with people who care and yet this thing has happened. What is going on, we ask?

Senator COHEN. I was most impressed with your metaphor about the ship. I was hoping you would not compare it with Sheffield. I have been called upon to talk about that as well.

Now, let me say this. At this particular time of year a lot of us are called upon to go to commencements. It is a very exciting time to go there and watch the measure of pride that parents have when they see their sons and daughters graduating from high school or college.

We talk about commencement being a time for beginning. It is not a consummation of the end, it is just the beginning. I think above all things, that we have to sit here and listen to evidence about housing, or lack of it; or food, or the lack of it. You can get by somewhat even if they cut back on food. You can get by without adequate housing, but if you cut out education, then you have nothing because you have no hope for the future. That is the importance we have to place on education above all other things. Without education there is no future.

Mr. TENERIO. Thank you very much.

Senator COHEN. My colleagues share this.

Mr. Tenerio. As far as we are concerned, in regard to the compromise that we made to build SIPI at the time, it was a solemn agreement with the Federal Government. It should be continued; not closed.

The public council supports the reauthorization of the tribally controlled community college and hopes it will be enacted as soon as possible.

The council recommends that this committee pursues settlement of the position taken by the 10th Circuit Court funding: that it is the Department of Interior's duty and responsibility to administer the hot lunch program. A transfer of funds would essentially result in this. Under the hot lunch issue, we or the Pueblo Tribes have been definitely involved in trying to right a thing or a siuation that has definitely been such that we consider it misplaced.

As you know, the Federal courts upheld the lower court's position. They said that our position was upheld and the U.S. Supreme Court will not review or change the lower court's ruling. We further understand that the essential point of this position is that it is the duty and the responsibility of the Department of Interior to administer the hot lunch program. The Interior Department does not have the funds. The funds are with the Department of Agriculture.

Lay people like myself feel that it would be a simple matter of transferring the funds from one department to the other. However, the bureaucrats and the technicrats as yet have failed to do anything resolving the position. You can get all kinds of help and you can get all kinds of mandates that are right or wrong. It is not within the ability of the Bureau to comply or to implement those things that the court has layed down.

The council, based on legal research by the Office of Indian Education and the Department of Education of the National Advisory Committee on Indian Education, feels that education is the responsibility of the Federal Government. BIA is part of that.

We want to emphasize that we feel that education is a trust responsibility. I just cannot see the mentality within the Bureau that says that it is not.

The council recommends that Public Law 89–189, the impact aid for school construction, be amended to allow Indian tribes on these reservations, where public school districts may be entirely located, to have access to emergency funds for constructing new facilities or for renovation purposes in order to move children from unsafe and/or unhealthy conditions.

The council recommends that Public Laws 95–561 and 81–815 be amended to assure that States comply with statutory mandates to provide supplemental education services or to provide direct funding to the tribes and authorize them to make payments to school districts only when services identified are delivered.

We have had a court case and we have plenty of history regarding this. When we make allocations as such, the council recommends that higher education continue to be funded adequately to assure the development of individual Indians, thereby enhancing the potential for self-sufficiency for the tribal entity.

The council recommends that the Johnson-O'Malley funding be maintained at not less than the funding level. The council recommends that funds for special education of the handicapped be increased so that adequately trained personnel are assured, that competent cultural relevant services are provided. The council feels that the appropriations for Indian programs should be maintained at high levels in order to continue the momentum that was initiated in previous years to assure full and progressive development of Indian people on all socioeconomic levels.

Last, the Indian council feels that there is room for much improvement in the administration of the BIA program on a partnership basis with Indian tribes and assistance on Indian terms would have more advantage over assistance stipulated by BIA or other Federal agencies.

I thank you very much, Mr. Chairman.

Senator COHEN. Thank you very much, Mr. Tenerio. Without objection, Mr. Lovato's written statement will be made a part of the record at this point.

[The prepared statement follows. Testimony resumes on p. 77.]

ALL INDIAN PUEBLO COUNCIL
OFFICE OF THE CHAIRMAN

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ext. 224/225

Testimony presented to Senator William S. Cohen,
Chairman, Senate Select Committee in Indian
Affairs, May 18, 1982, by Mr. Delfin J. Lovato,
Chairman, All Indian Pueblo Council, Albuquerque,
New Mexico.

Mr. Chairman, my name is Delfin J. Lovato, and I am the Chairman of the All Indian Pueblo Council, representing the several Pueblo tribes located in New Mexico. The A.I.P.C. was organized over three (3) centuries ago, and has been a viable organization, representing the interests, concerns and objectives of the Pueblo tribes.

I want to express my sincere gratitude to you Mr. Chairman, and to the members of this Committee, for inviting us to present our views on the education issues which face the Indian in general, and, of course, the concerns as identified by Pueblo leaders specifically.

B.I.A. REORGANIZATION:

In my discussions with Indian leaders from across the country, I've ascertained that the uppermost concerns Indians have, is the activity regarding the re-alignment of the Office of Indian Education, as perceived and being carried out now by the Bureau of Indian Affairs (B.I.A.).

Because of the lack of adequate information as to how the realignment is to be executed, the A.I.P.C. is strongly opposed to letting the B.I.A. continue its activities as if it were business as usual. Moreover, the B.I.A. has overtly ignored its own established policy on consulting with Indian tribes on important matters. More distressing is the fact that the highest officials in the B.I.A. have condescended to carrying out the Administration's directives, for the sake of budget savings, and without any apparent will to educate the Administrative policy makers about the severity and consequences to American Indians of these budget reductions. The B.I.A. officials have apparently abdicated the Federal trust responsibilities and their charge as caretakers of Indian natural and human resources, and the development thereof. The favorable policies which were established over many years, and which were beginning to lead to a viable and progressive development, via a partnership between Indian tribes and the Federal Government, have been cast aside. The potential for progressive advancement, girded by reasonable Federal dollars, has been set back. Never in the history or Federal-Indian relations has this been experienced. Even more distressing is the fact that our faith in putting Indians in high Federal positions, and hoping thereby to enhance our dealings with the U.S. Government, has been given a severe blow. Certainly, if the will to bargain, and the will to seek compromises were asserted, understanding and reason may have prevailed. The small gains made since the Nixon era have been de-emphasized and in jeopardy of being lost, and our people are being forced to accept even more severe, social and economic depravity. Even when such deprivations are already the highest on any social and economic measurement, in comparison to all other Americans.

Mr. Chairmain, I wish to impress on you and this Committee that we have tried to gain understanding and support to ease the impact of the Administration's budget policies. However, our pleas and efforts have gone unheeded.

On May 5, 1982, we listened to Senator Mark Andrews testify before the House Sub-Committee on Interior Appropriations, where he recommended that all activities of the B.I.A. regarding its reorganization effort cease until such time as the B.I.A. provides information regarding all aspects both favorable and negative, of such reorganization. The A.I.P.C. heartily concurs with that recommendation. Presently, there appears to be no person or office in B.I.A. who can answer any of the questions asked by the Congress and Indian leaders as to the real consequences and impact on manpower and on dollars, or what benefits or savings or improvements will be realized. It appears as if it is a situation of the proverbial, "blind leading the blind", and the B.I.A. is unable to show reasonably what the final outcome might be. We repeat, the A.I.P.C. strongly opposes any B.I.A. reorganization, education or otherwise.

More recently we have heard and read in the news media about the problems B.I.A. is having in accounting for its own activities and expenditures of operating funds. At the recent House Interior Appropriations hearings, we sat in disbelief while B.I.A. officials described how the four percent (4%) across the board reductions stipulated by Congress was applied in the B.I.A. Apparently, the B.I.A. complied with the required reduction by making arbitrary and selective reductions and increases of budget line items with little concern to the Congressional mandate nor effect on various programs. In the private sector, such action would have been handled by termination notices; in B.I.A., they probably received merit increases. In view of such flagrant mismanagement, lack of planning, stagnation and the will to represent the Indian people as directed by legislation, Executive Orders, and U.S. Supreme Court decisions would be further diluted. Any reorganization B.I.A. proposes should immediately cease until such time as a full study with recommendations are produced, and ample time and opportunity to review the findings and recommendations by Congress and Indian Country is afforded.

TRANSFER OF INDIAN EDUCATION FROM DEPARTMENT OF EDUCATION TO B.I.A.:

On March 1, of this year, we testified before this Committee indicating that the A.I.P.C. was opposed to the proposed transfer of the Indian education programs, now administered by the Department of Education to the B.I.A. Today, we reaffirm our objections of the proposed transfer. During the hearings on March first, it became very clear that the management problems being experienced in B.I.A. would only jeopardize the effective services and benefits now provided by these programs if they were placed in B.I.A. The A.I.P.C. asserts that Indian education programs should remain with the Department of Education however, the A.I.P.C. feels that communications between B.I.A. education program administrators and Department of Education Indian program officials need to be developed to assure better services and improved programs on all common educational fronts by utilizing all available manpower and program efforts as determined by local Indian tribal governments.

SOUTHWESTERN INDIAN POLYTECHNIC INSTITUTE (S.I.P.I.)

The A.I.P.C. is adamantly opposed to the closure of S.I.P.I. Our reasons for opposing the proposed closure, as suggested by B.I.A., Interior, OMB, and the Administration, lies in the Pueblo leadership's experiences when the Santa Fe Indian School, where many Pueblo Indians received their education, was proposed for conversion into an elite art school. The Pueblo leadership at that time stood shoulder to shoulder to save their school for their youth. I had the previlege of meeting some of those leaders when I initially became involved in Pueblo Affairs. They advised me that only after a valiant effort to save their school did they compromise. Any only after the U.S. Government agreed to construct a bigger and better school for their children and to be located in Albuquerque, New Mexico. As far as the Pueblo leadership of that day was concerned, they entered into a solemn agreement with the U.S. Government that what later became S.I.P.I. would be the institution where Pueblo students could go until such time as Indian youth could matriculate on an equitable basis in any education setting. Today we know for a fact that Indian education continues to play catch-up in the education arena. The fact that Indians have their own languages, and culture is ignored in favor of the "melting pot concept". We Indians are expected to close the gap in education in a span of a mere fifty (50) or so years, when other Americans have participated in educational development since the Pilgrims landed at Plymouth Rock, over three hundred (300) years ago. The Pueblo leadership of twenty some years ago would feel betrayed, if today's Pueblo leaders were to accede to the B.I.A.'s closure of S.I.P.I. Moreover, the then promised student capacity as discussed, planned and agreed to has never been realized. Professional educators tell us that skill training, academic education especially in the mastering of English, and sciences is still very necessary. The learning or such skills has become more acute because technology demands such knowledge and expertise in order to become productive and self-sufficient citizens. The facilities and opportunities offered by S.I.P.I. are unavailable in rural settings where many Indian reservations are located. The B.I.A.'s proposed closure, and apparent desire to carry it out is still another example of its misguided and unrealistic actions. Even when the House Sub-Committee on Interior Appropriations offered to provide the necessary funds to continue S.I.P.I.'s operation, no noticeable jubilation emanates from B.I.A. The Congress and Indian country are faced with a "no-win" predicament regarding S.I.P.I because the frequently mentioned "safety net" has developed large holes and no one is willing to patch it. Once, a long time ago, when the Pueblos were larger in numbers, they revolted against tyrannical conquerors who treated them as so many cattle. Sometimes we wonder whether maybe aggitation and drastic action is the only way to compel reasonable solutions. Again, we state as emphatically as we can that S.I.P.I. should not be closed.

RE-AUTHORIZATION OF THE TRIBALLY CONTROLLED COMMUNITY COLLEGE ASSISTANCE ACT OF 1978:

In August of 1981, the A.I.P.C. approved a resolution indicating its interest to establish post secondary education programs for its collective Pueblo membership. There are approximately 15,000 Pueblos, ages 18 through 36, who could benefit from such an activity. We have watched with interest the progress other tribes are making in that regard and we feel that we can manage and administer a program geared to the needs identified by our resident populace. On May 4, 1982, we heard the testimony presented by various tribal college representatives regarding the proposed re-authorization Bill pending before the House Sub-Committee on Post-secondary Education. We wholeheartedly concur with the recommendations and anxiously await the enactment of this legislation so we can begin to participate in the benefits of the proposed activities. We were disappointed that B.I.A. testified in opposition to the Bill.

HOT LUNCH PROGRAM:

Several years ago the A.I.P.C. filed a suit in the Federal Courts citing that the arbitrary and unilateral decision of the B.I.A. to transfer the Hot Lunch Program over to the Department of Agriculture was invalid. In January of this year, the Tenth Circuit Court rendered a decision upholding the A.I.P.C. position. We are advised that the U.S. Supreme Court will not review or change the lower court's finding. We further understand that the essential point of this decision is that it is the duty and responsibility of the Department of Interior to administer the Hot Lunch Program. However, the Interior Department does not have the funds. The funds are with the Department of Agriculture. Lay people like ourselves, feel it would be a simple matter of transferring funds from one department to the other, however, the bureaucrats and technocrats as yet have failed to do anything resembling the Court's decision.

FEDERAL RESPONSIBILITY FOR EDUCATION OF INDIANS:

The legal profession, in recent years, has attempted to seek an appropriate and lawful characterization of Federal responsibility for education of Indians. The present B.I.A. officials, in testifying before Committees of the Congress, have indicated that they did not want to characterize Indian education as a "trust responsibility". The A.I.P.C.'s position is that historically, based on legal research referred to above, is that education of Indians is a trust responsibility which developed either through treaty, legislation, executive order or implemented policy on the part of the Federal Government. We are not versed in law; however, we understand that the prolonged practice of an activity has been construed by the Courts, as a practice custom or routine which can be interpreted as a course of action leading toward establishing a legal responsibility. We believe that the historical basis of civilizing and educating, and providing other services to Indians as indicated in legal opinions and court decisions definitely makes education of Indians a part and parcel of Federal responsibility. Further, the Federal services provided to Indians is in exchange for lands ceded to the United States. B.I.A. is totally ill advised in taking the position it has regarding education as a non-trust responsibility.

IMPACT AID FOR CONSTRUCTION, PUBLIC LAW 81-189:

There are a number of Indian tribes who have established Public School Districts within the state in which their reservations are located. In cases where School Districts include tribal land as well as non-Indian lands, raising revenues through issuance of bonds to meet constuction needs has been a normal and viable practice. In those instances where Public School Districts include only Indian land areas, state coffers have not provided funds for construction of school facilities. Impact Aid funds appropriated by the Congress are administered through the Department of Education. The procedures utilized in how an Indian Tribe needing emergency funds, when school facilities do not meet health or safety standards, and condemnation is being held in abeyance because no other facilities are available, are most cumbersome and unrealistic in meeting emergency situations. The A.I.P.C. recommends that Public Law 81-189 be amended to allow Public School Districts located entirely on an Indian reservation be provided a direct means to meet funding needs to meet the safety requirements when dilapidated facilities, whose usefulness exceeds forty (40) years, and further that the Congress establish a separate appropriation of $5 million annually until all such emergencies no longer exists or states voluntarily or otherwise agree to provide the necessary funds.

IMPACT AID, PL 95-561/PL 81-815:

This is a difficult area to address since the A.I.P.C. does not directly operate schools, with the exception of the Santa Fe Indian School which is under contract with the B.I.A. We are advised, however, that problems do exist in public schools administering impact aid funds. Generally, Public School Boards use impact aid funds for general operations and not as supplemental to meet the unique needs of Indian students. This misapplication of funds sometime occurs even when agreements and procedures have been worked out between Indian parents/representatives and the State Board on Education. Apparently, local School Boards do not have to comply with State Board of Education criteria. Of course, in the case of PL 95-561, these procedures are contained in the legislation. The A.I.P.C. recommends that amendments to PL 95-561 be enacted to strengthen, enforce or penalize School Boards when in non-compliance and/or enact the establishment of a funding mechanism which allows Indian tribes to receive impact aid funds directly with provisions to reimburse public schools after compliance or services as originally intended in law have been executed.

HIGHER EDUCATION:

Because of budget reductions, the A.I.P.C. higher education program has experienced a reduction of fifteen percent (15%) for each of the last three (3) years, thereby reducing the number of Pueblo and other Indian students who qualify to attend an institution of higher education. When inflationary factors are added, of course, the reduction is even greater. Opportunities for higher education are rapidly diminishing and as a consequence tribal entities will be faced with a shortage of skilled personnel, and Pueblo citizens deprived of a means for earning a good livelihood.

A similar situation in the graduate fellowship program is reducing the numbers of advanced trained individuals whose skills are needed to fill tribal positions leading to self-sufficiency. The A.I.P.C. recommends that funding for the higher education programs be maintained at not less than the FY '82 levels.

JOHNSON O'MALLEY PROGRAM:

The A.I.P.C. Program is experiencing severe declines in providing adequate supplemental educational programs for the benefit of the Indian students funded from Johnson O'Malley appropriations. While changes have been made to improve programs and to assure effectiveness and quality of activities funded by the Johnson O'Malley Act, appropriations fall short of meeting the special educational needs of Indian students as intended by the Act. Indian Education Committees are frustrated by the fact that parents insist on maintaining quality programs as well as improving and enlarging these programs. These expectations cannot be met when faced with lower funding. The A.I.P.C. recommends that funding of JOM remain at not less than the FY '82 level, and that if funds are to be further reduced, that JOM be spared from further cuts.

SPECIAL EDUCATION:

The Pueblo Indian Special Child (handicapped) in New Mexico has historically received care and maintenance within the Pueblo extended family. However, with the recent passage of various laws providing for the care, maintenance and education of these special children, many of the family based responsibilities are now being undertaken by Federally assisted programs. Our nation has witnessed significant advances in public policy concerning the availability and appropriateness of education opportunities for handicapped children and youth. These landmark laws, (The Education for All Handicapped Children Acts of 1975, PL 94-142 and Section 504 of the Rehabilitation Act of 1973, PL 93-112) and the accompanying regulations have established a national policy guaranteeing the educational rights of the special children, based upon the principles of equal opportunity and equal protection as stated in law and the U.S. Constitution.

With the enactment of PL 94-142, Education for All Handicapped Childrens Act, definite provisions to meet needs for Indian handicapped children served by the Department of Interior, in B.I.A. operated schools were mandated. Although PL 94-142 required that B.I.A. schools to reach a full service goal for all special children in attendance by September, 1978, however, the state of special education services delivered to the American Indian Special Child as intended by PL 94-142 has not significantly improved according to a recent GAO Report.

Essentially the report indicated that the Bureau is progressing too slowly in achieving the mandate and a lack of services still exists. These unmet needs are similarly reflected in the data collected during this past year by the All Indian Pueblo Council.

Mr. Chairman, we recommend that the Committee investigate whether or not there is sufficient funding available that would ameloriate the lack of services as evidenced. Or if in fact sufficient funding is available, why the problems (i.e. lack of qualified Pueblo personnel, fragmentation of services, use of culturally biased testing methods resultant in a high incidence of inappropriate class placement) are still visable.

To reiterate, then the number of unserved handicapped children, lack of culturally relevant services and systematic methodology would be problems critically aggrevated should budget cuts be effected.

EFFECT OF BUDGET REDUCTIONS:

Because education is the means to learning a skill which may be applied to earning a livelihood, as well as these skills being utilized by tribal entities to move forward in its quest for self-sufficiency, education becomes a very important topic in the minds of Indian people. However, at the same time, other considerations such as trust responsibilities, roads, economic development, law enforcement, are equally as important to maintain and improve what is already present. Of course, we are more often asked nowadays, what is your highest priority? Would a starved person prioritize the order of his preference when he is exposed to food? Probably not. Mr. Chairman, it is most important that the Congress comprehend this analogy in considering appropriations for Indians. All areas of activities are of high priority, because each and everyone is a means to surviving as a tribe. In our view, education is the means to assure survival as a tribe, as families and as individuals. Yet education is immeasurable. One can remark that education is 100% better today than say fifty (50) years ago - and it is true - however, the budgetors don't concern themselves with human factors. The impact that the budget reductions are having are only seen in terms of dollar figures. Today, no one can say that by reducing services, etc., as a result of cuts, that the quality of education is maintained. We probably will never know, but we may wonder why formal education remains as elusive as ever among a group of divergent citizens who have their own culture and languages.

GENERAL:

Mr. Chairman, we have attempted to cover as many concerns regarding Indian education programs as we possibly could. We may have not identified all the problems and concerns; however, we've tried to indicate those things we felt were most important.

We want to call your attention to, and make special emphasis of a new concept which has been adopted, and is now in implementation within the Office of the Administration for Native Americans, Department of Human Services. It is a process aimed at improving the ability of Indian tribes in identifying and prioritizing activities for their social and economic advancement. It is a concept which we heartily endorse, because it allows the tribes to define and prioritize for their own needs according to their own agenda, within sound management and administrative principles, of course. Historically, while legislation aimed at aiding Indians has been well intentioned, programs were geared to meet Federal agendas for assimilation, or self-determination purposes, but always attached with conditions which did not allow for addressing the true tribal needs. For example, in the B.I.A.'s FY '83 budget request for Tribe/Agency operations, the amount requested is $260,579,000. B.I.A. indicates that, "....tribes formally participate in setting funding priorities". Mr. Chairman, the $260,759,000 represents approximately 29.3% of the total FY '83 B.I.A. budget. While the formal participation is true, many tribes still end with priorities determined by B.I.A., moreover, the remaining 70.7% of the budget remains in the full control of the bureaucrats. Certainly there is ample room for improvement in the conduct of activities within the B.I.A.

The A.I.P.C. feels that this new concept which develops and promotes strategies for balanced social and economic growth and which evolved out of the Office for the Administration for Native Americans be adopted as a matter of management policy in all Federal agencies dealing with Indian tribes.

ALL INDIAN PUEBLO COUNCIL
OFFICE OF THE CHAIRMAN

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ext. 224/225

Testimony presented to Senator William Cohen, Chairman, Senate Select Committee on Indian Affairs, by Mr. Delfin J. Lovato, Chairman, All Indian Pueblo Council, on May 18, 1982.

Mr. Chairman, I am pleased to submit the attached cartoon which, in my opinion, accurately depicts the problems being experienced in the B.I.A. Because of the all incompassing ramifications indicated in the cartoon, the All Indian Pueblo Council adamantly opposes any reorganization until B.I.A. has heard further instructions from General Custer.

Please do forgive the brevity and acrimony and unmannerly curtness of this communication, Mr. Chairman. We are at present too vaxed and decomposed to write at greater length or with the mansuetude befitting our office.

Imprimatur de popoulis
Nativis Pueblorum, Quatour
dies Maio anno Domini
quattuor duo (14 May 1982)

(ecce signum) Delfin Jovan Lovato

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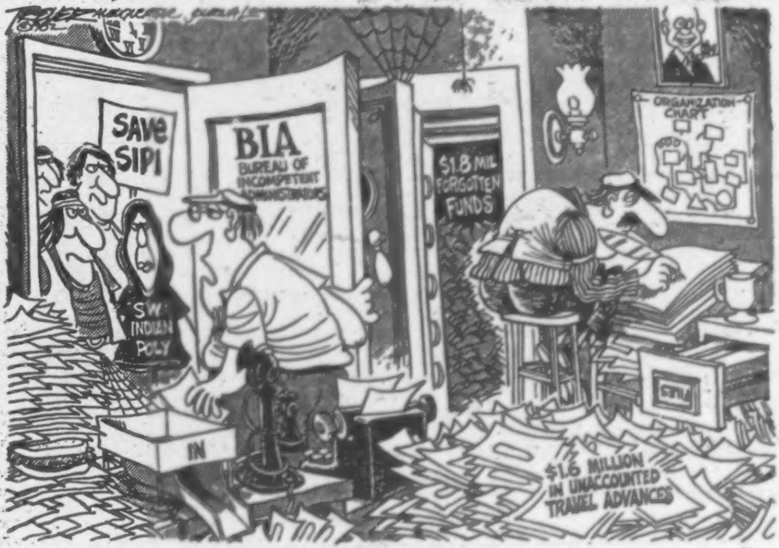
SAVE SIPI
BIA BUREAU OF INCOMPETENT ADMINISTRATORS
$1.8 MIL FORGOTTEN FUNDS
ORGANIZATION CHART
SW INDIAN POLY
IN
FILES
$1.6 MILLION IN UNACCOUNTED TRAVEL ADVANCES

"SORRY, BUT WE HAVE TO CLOSE SIPI BECAUSE IT'S NOT COST-EFFECTIVE!"

Senator COHEN. You may proceed, Mr. Webster.

STATEMENT OF GERALD WEBSTER, ASSOCIATE DIRECTOR, UNITED SOUTH AND EASTERN TRIBES

Mr. WEBSTER. My name is Gerald Webster representing the United South and Eastern Tribes. Our office is in Nashville, Tenn. It consists of 12 federally recognized Indian tribes, most of which are east of the Mississippi from Maine to Louisiana and Florida.

It is a rather unique organization. Many of our tribes are relatively new at their Federal recognition status and this has created some special problems and special situations even in the area of Indian education.

The Indian people in general are pretty unique in their status in this country, especially in the area of Indian education. They are different than any other population group. The tribes have a choice that they can make. They can have the Bureau of Indian Affairs provide educational services for them or the Federal Government provide service. That is not done in any other area in this country except for Indian people. They can contract to provide services for their own membership.

This is a procurement action—not really. The basic educational system, which grows out of the community, which is the public school system in this country, is rather unique. As an alternative they can attend the public schools system and attempt to work with the surrounding school districts and have services provided them to meet the needs of the Indians.

We are faced with a situation that constantly ties these unique people—the Indian tribes, their governments and their people—into the public school system movement. Frequently it does not work.

I guess what I would like to see come out of a hearing like this and through discussions I have with any tribal members and leaders, is a new look at how to provide educational services to Indian people. I do not think you can look across Indian country and ever see anything else at all, or the kinds of quality services that can be provided to any one.

How often do you see a special gifted program on an Indian reservation? How often do you see special programs for the handicapped and disadvantaged that you often see in a public school system? Even under areas under cutbacks in the public school system you still find these kinds of services in a modified form, whereas they are practically nonexistent when you talk about Indian country.

You cannot name a program that you want to cut back that the Indians will not oppose. If you line them up we will oppose cutting them. It is not just a self-righteous thing to say, "Why should they come after us?"

I do not know every single program where you cut back at all or cut back the fat. Every program that I am familiar with in Indian country, when you cut it you are cutting out the meat of the program.

When I think about the handicapped programs—they have never been in place. I have worked with tribes and among our youths since 1973. They had their first high school and college graduate in just these few years. Many tribes across the country are in the same situation. I find it difficult that anyone could readily identify a good area for cutting back when they are not there.

When you talk about the quality of Indian education and the impact that the budgetary cuts are having on Indian education, I talk to tribal members. The things I hear on the cutbacks in the basic services and the student-teacher ratio is that this is often impacted. The basic things such as meals, educational materials, gasoline for the buses and things that are so basic to education directly influence the child's future. It is not some nice extra program or field trips to museums.

I, personally, and my children are enrolled in the public schools because I live in Nashville. That is a disadvantage to me because it handicaps my children. They will never receive anything from this public school system that meets their needs in the area. It is a handicap that we will have to live with.

When I think of the services that are provided they so far transcend what is offered back on the other reservations. There is really no comparison. When they get cutbacks in local systems, you go from a special program to a challenged program. You go from having the little elevators to those that do not have elevators and you have to lift the handicapped people onto the bus as opposed to not having buses at all.

It is that kind of difference and quality that we are talking about here. I guess what I hear from our tribal leadership is that they are looking, especially in the eastern area, because frequently the tribal governments have got a fresh relationship with the Government that does not go back 100 years or 200 years. This is because of the status or the tribe having Federal recognition fairly recently.

They would like to find some way to strengthen the basic Federal-Indian relationship including education. This is during times of need, such as this. I think they look at this as an opportunity to find some way to strengthen this. As I mentioned, they do not see it through increasing Federal presence on the reservations. They do not believe in that. They do not see Public Law 938 being the basis for it. It is a procurement method with all its good intentions of providing services.

I think I would be justified in saying that you spend $3 extra to spend a Federal dollar as you would to spend something that was not a Federal dollar to provide the same service. The administration of this is very costly. It has detrimental effects on Indian people.

As far as the transfer of title 4 is concerned, we have not completely polled our membership. I have talked to some of our tribal leaders in the past about this. They are opposed to it for several basic reasons. Other than any funding considerations, there is a system in place now that in some way addresses the special tribal rights and rights of Indian people outside the tribal environment. We have not seen anything that addresses that or how that would be accomplished under title 4 into the Bureau of Indian Affairs.

The tribes do not want to be put in the place of being in opposition to urban Indians for instance. They would be forced into that situation through no fault of their own. Their primary consideration is the protection of their rights and the services of the tribal people. If they are faced with a situation to have the urban people in the same way, it is an unfair situation.

There is nothing that we have heard yet that comes out of the proposed title 4 into the Bureau of Indian Affairs that looks up that question in any way that is satisfactory to the tribal governments.

When they were transferred, the general consensus was that it was done to the detriment of the Office of Indian Education. It was somewhat stronger within the Office of Indian Education. As a result of this, the director took a step downward in the transfer. I think the feeling was that everything would pick up if it transfers again. It would be at a detriment. Things never get better during all of these proceedings. It seems like things are always getting worse. That is always a fear that runs through any proposed transfer.

So, one of the officers would attend a testimony such as this. We only meet semiannually. It is difficult to schedule them to be here. Another difficulty is that they are going to be taking action in some of these areas and determining themselves which would be the course that they would take in addressing these issues which we are talking about today.

Later on, perhaps next week, we will be submitting a written testimony. I did not feel that we should do this at this time without the concurrence of the full board meeting. I think we would be out of line submitting any written testimony.

The tribes wish to deal with Federal agencies as equals. We have not seen that sort of desire on the part of the Federal agencies to deal with us. You have many examples that I have heard this morning. In every instance, things are initiated at the Federal level.

The tribes are asking to find some mechanism that they can chart their own course when the word comes that, "Yes, we have produced the budget." That is a big issue. It takes 6 months to 1 year before the Federal Government can deal with it. Everything is set in place before the tribal governments are asked to respond.

We have got to find some way at the beginning of the process, to say that the Government would be willing to work together to find areas that they can find to save funds while not jeopardizing Indian education. I think you would get a lot more cooperation from the Indian people using that method as opposed to the method currently being used.

I think we should look to the Senate and let us call on them to strengthen this Indian relationship. There should be some unique method to cope with these problems. I hate to think that any Indian parent would feel that we would be faced with this every year. I do not see any thought at all coming out of this administration that that is going to change.

The tribal leaders expressed an interest from the beginning of this administration. They would really like to work closely with it. We have had a very difficult time finding access to various Federal agencies. I think perhaps that the Senate could play a strong role in defining that relationship.

The No. 1 concerns of the Indian people is the trust relationship. It seems when the Federal Government deals with Indian people it is always finding areas where they can erode these areas of weakness—we do not have to do this—it does not really affect the trust relationship.

We can tell the tribe we have our own eligibility guidelines for our tribes and our list of tribal members and we will determine who comes to the school. It is not you who says who can be a student in our school.

On behalf of our elected tribal leaders I want to thank you for having this hearing and we will come up with a more comprehensive statement.

Senator COHEN. Thank you very much.

Mr. ABEYTA. I will wait until this afternoon. I can speak this afternoon.

Senator COHEN. Then we can stand in recess until 2 p.m., and we can hear from you at that time.

Mr. ABEYTA. Thank you.

Senator COHEN. Perhaps this afternoon we can decide whether we will keep the record open long enough, until the end of next week, in order that you might submit more testimony after your deliberations here today. Thank you very much, gentlemen, for your testimonies. It has been very helpful.

We will stand adjourned until 2 p.m.

[Whereupon, at 12 noon, the committee recessed to reconvene at 2 p.m. the same day.]

AFTERNOON SESSION

Senator MELCHER (acting chairman). The hearing will come to order. We have a bill at 3 p.m. or 5 minutes after, but we will go ahead with the hearing.

There is pending business at this time. Due to the timing of this, it has been pretty difficult to do things.

First of all, I would like to call on the superintendent, Mr. Phipps from Busby, Mont.

STATEMENT OF RAY S. PHIPPS, SUPERINTENDENT, BUSBY SCHOOL OF THE NORTHERN CHEYENNE TRIBE, BUSBY, MONT.

Mr. PHIPPS. Thank you. I appreciate the opportunity to appear here. It is my first chance. I will keep my comments brief. I have a folder of information that I will summarize and document some of the things that I hope to say. I have said it many times and I would like to repeat it here, that I am really proud to be in this country and have the form of government that we have.

I believe that we have the best form of government in the world. It does have its weaknesses but I am proud to be a part of it. I will get on with the summary.

I have been asked to be a little more specific in terms of the problems dealing with Indian education. In the packet of information are documents for the following: There is funding information here that shows since 1979 the Busby School projected through next year, 1983, will realize a 71-percent funding decrease. We will be operating on 29 percent of the funds that we operated on in 1979. There are two reasons for this.

No. 1 is the contract amounts have been lessened due to the Indian school equalization program with some severe reductions in student enrollment for uncalled for and unreasonable reasons that I will mention a little later. That means that we have gone from an enrollment of 329 children in 1979 to 135 today and it is steadily declining. That is creating a real problem for the community which I will explain.

We have some minutes that show the effort has been made by the tribe to account for and to adjust to the severe reduction. In May of 1980, we reduced the force for this last year by 11½ people or 6½ certified staff and 5 noncertified staff which was mostly aides.

In November, we had a mid-year adjustment. This was very difficult because our staff is contracted on a yearly basis. We realize the difficulty in knowing what your budget projections are going to be until actual figures are given us in November and March. After our accounts and budgets are in we have also had another problem with it in that we were notified rather late last year that the national school lunch program would not give us cash reimbursements as it had in the past for free and reduced lunches because we were a contract school. Ninety percent of our families are eligible for free and reduced lunches.

This cost us $50,000 in cash. We are still eligible for reimbursement of commodities but it has been very difficult to figure out. We have had an over supply of commodities and it is limited in terms of variety. There are lots of cheese and soy beans, nevertheless we will go on from there.

Contracts were committed for the year and we found that after the school started that NSLP reimbursement was to be discontinued for contract schools. Those things combined left us facing a deficit next fall—that is until the new program year in October begins.

You will also notice that in the school, BIA contract is the key to the problem. In this contract, which was signed between the tribe and the Bureau of Indian Affairs back in 1971 and 1972, this statement was included in section 103: The school operating facilities will be maintained by the Government—the BIA.

Under facilities, a use permit is granted to the contractor, which is the tribe. Any capital improvements, repairs, and maintenance will be the responsibility of the Government and the Bureau. That is unless the contractor requests and receives approval for permission to perform some of the functions from funds provided in this contract.

The B section under 103 states that the facilities shall meet the State standards for an educational institution. This is why there is such a rapid decline in the enrollment. These standards are not being met.

The tribe, for various reasons, insisted that the facility not be contracted because it was not in a condition they felt they could take over. That condition has since deteriorated to the point that there may not be any choice but closure.

Also in this packet you find a resolution by the Busby School Board and the Northern Cheyenne Tribal Council which asks for a special investigation concerning the Government and the provision in the contract requiring the Government to provide facilities. There is another request in the packet by the Northern Cheyenne Board of Health.

I know that we are referring to one specific little school out here and there remain a lot of problems and global considerations that the Senate has to deal with and that we have to deal with, but I think that these problems, even in a little place like Busby, Mont., are indicative of some of the problems that are nationwide.

A health survey is included in this packet and we will shorten this testimony because I feel that I should keep it as brief as I can.

Prior to the formula funds appropriated by Congress, we had an approval through other contracts for maintenance. We also have in this packet a request for an investigation of what has happened to some of the allocated funds.

Over the years there have been plans for high school facilities at Busby in maintenance and preventative measures. Plans have been completed only on paper. We have all other documentation and all of the blueprints laid out and have taken soil samples and have drilled wells. Suddenly when everyone is smiling and patting each other on the back, we realize that nothing has ever been done. I think this is a matter of record.

Again, our biggest problem, and I will not go into detail, has been the gross neglect of the facilities. We have had community volunteers keeping up facilities. We have had staff volunteers. We all have done our share of custodial work, including myself. We also have student volunteers. We have tribal foundation donations for hiring a couple of women to keep up the facilities and keep up and clean the restrooms.

I feel that over this period of time of the contract, we have deteriorated to a horrible state to say the least. With all honesty, I would invite anyone to check my words. I will not mention any names, but we have had a couple, and particularly one visitor, a deputy assistant to the Secretary of Interior who has taken a tour of the building and I think the man could really verify what I am saying.

In summary, Mr. Chairman, I would like to say our drop in enrollment is primarily due to the facility's maintenance problem. At the time that we had our visitor we had toilet facilities that had been inoperable for 5 weeks. We cannot expect the health and safety standards that are far below, that of the general public and the State of Montana, to meet the approval of people just because these are Indian children.

I am confident that there is not a community in the Nation that would allow their children to attend a school knowing some of the health and safety problems that are existing here as to facility maintenance.

I liken the problem to the U.S. Air Force contracting our airplanes from the Russians and expecting them to maintain them and to supply the fuel. The results we would expect from them is about what has happened with contracting for education between the Northern Cheyenne Tribe and the Bureau of Indian Affairs.

We have appealed all through the education system; from the BIA agency level to the Bureau of Indian Affairs area office and to Mr. Barlow's office in Washington, D.C. They tell us that because it is not an educational problem but a facility problem—a field and maintenance problem—they have done eevrything that they can. As late as last month school and tribal officials met with John Fritz to ask for some kind of aid.

In summary, I have appreciated this opportunity. I think that this stated concern may be indicative of some of the concerns of other Indian schools in this country.

They also have specific problems. They may not be the same ones, but nevertheless they are confronting the same unresponsive attitude from the bureaucracy. Thank you.

Senator MELCHER. Now what this means is that it is virtually impossible to operate a contract school at Busby with these kinds of funds; is that not correct?

Mr. PHIPPS. With these kinds of funds, we will not be able to continue operation after another year.

Senator MELCHER. You say one little school but it is the only school for 132 children, is it not?

Mr. PHIPPS. Yes, sir. Some people are sending their children to neighboring schools. Some children are riding as long as 3 hours on buses to neighboring schools.

I understand that we have additional buses being placed on the routes by other schools to pick up these children. The primary reason for this has been facility neglect causing the embarrassment and humiliation of the parents and children attending this type of school.

Senator MELCHER. When you say a restroom was not operable for 5 months—did you say that or 5 weeks?

Mr. PHIPPS. Five weeks.

Senator MELCHER. What was done to provide restrooms for the students during that 5-week period?

Mr. PHIPPS. Part of the time we took them to another building. This is in the primary wing of the elementary school where these were reviewed by one of the deputies.

Senator MELCHER. These were children of what age?

Mr. PHIPPS. Between kindergarten and the sixth grade.

Senator MELCHER. Young children. They needed restroom facilities and would go to another building?

Mr. PHIPPS. Yes, sir. I will be frank. Not all of the commodes were unusable except when there was an overflow. I am just being honest. We have had some toilet facilities that we have had to close up, such as our high school boy and girl facilities, because the restrooms were not acceptable. They have been plugged up so long that the entire facility was inoperable.

Senator MELCHER. For a contract school, there are no other funds to rely on other than what you can get out of the contract?

Mr. PHIPPS. We are hoping to qualify for donations. We will try for the charitable end of it. No; there are no other funds.

Senator MELCHER. What do you mean by donations?

Mr. PHIPPS. From charitable organizations or organizations that would donate such as ARCO, some of the coal companies, and church organizations. We do not qualify for 874—Federal impact aid funds because we are a contract school.

Senator MELCHER. I find it reprehensible that we have a contract school that is expected to operate without any money and is forced to be put in a position of operating on the basis of soliciting funds as if it were a charitable school. I have no objection to anyone that wants to donate to operate a school. I think it is a very meritorious donation. For us to have to rely on that set of circumstances, on the charity of outside organizations to provide the educational opportunity in a quality manner for what is clearly a Federal obligation for those Indian children is indeed reprehensible to me.

Mr. Phipps. Sir, I might just add that the last money that was placed, to any extent at all at the Busby facility, was a result of your efforts. I was reminded of this because I was not at Busby when that happened. Back in 1978, you made a special effort, I believe, and took some unusual actions, and for that, again, we thank you.

Senator Melcher. It is called a line item. We are going to have to resort to the same tactics unless the administration willingly accepts the recommendations.

I can assure you that this committee will act very strongly on behalf of Busby and, if necessary, we will attempt to have the understanding of the Appropriations Committee and the understanding of the entire Senate for a line item to help alleviate your situation which is indeed an emergency situation. Thank you very much, Superintendent Phipps.

Mr. Phipps. Thank you, sir.

Senator Melcher. Without objection, we will insert your information packet in the record at this point.

[The material follows. Testimony resumes on p. 160.]

INFORMATION PACKET SUBMITTED BY THE BUSBY SCHOOL OF THE NORTHERN CHEYENNE TRIBE, BUSBY, MONT., MAY 18, 1982, RAY S. PHIPPS, ED.D., SUPERINTENDENT

CONTENTS

I. Funding Information

- A. Recap of Funding Levels (FY1979-FY1983)
- B. Busby School Board Minutes of May 11, 1981 and November 12, 1981
- C. Ineligibility concerning USDA Child Nutrition Program

II. Facilities and Plant Maintenance

- A. Contract between Busby School Board and the Bureau of Indian Affairs
- B. Northern Cheyenne Tribal Council Resolution No. 107(82)
- C. Northern Cheyenne Board of Health Resolution No. 6(81)
- D. Comprehensive Environmental Health Survey
- E. Health and Safety Inspection Report

III. Appropriated Funds not Committed to Busby School

- A. Northern Cheyenne Tribal Council Resolution 108(82)
- B. Educational Funds Awarded to Busby School in FY 1979 by Bureau of Indian Affairs (Contract)
- C. Educational Funds , per BIA Central Office, that indicate what was avaliable for FY 1979

I. FUNDING INFORMATION

Busby School
of the Northern Cheyenne Tribe

Telephone (406) 592-3646
Busby, Montana 59016

BOARD OF TRUSTEES
Mr. John Russell, Jr
CHAIRMAN
Mrs. Grace Bearquiver
MEMBER
Mr. Lynwood Tall Bull
MEMBER
Mr. William Tall Bull
MEMBER
Mr. Matthew Two Moons, Sr
MEMBER
ADMINISTRATION
Dr. Ray S. Phipps
SUPERINTENDENT
Mr. Basil Braveheart
SECONDARY PRINCIPAL
Mrs. Norma Bixby
ELEMENTARY PRINCIPAL

GENERAL FUND

RECAP OF FUNDING LEVELS

FISCAL YEARS 1979-1983

Fiscal Year	79	80	81	82	83
Educational Funding Levels	$1,256,998	$1,141,124	$884,898	$435,998	$359,532
% Reduction From Base Year FY 79	0%	10%	30%	65%	71%

Note: Indian School Equalization Program (ISEP) was implemented FY 80

BUSBY SCHOOL
All Programs
Recap of Funding Levels and Related Information
Fiscal Years 1979-1983

Grantor Agency	Program	FY 79	FY 80	FY 81	FY 82	FY 83
BIA	General Fund	$1,256,998	$1,141,124	$ 884,898	$ 435,998	$ 359,532
BIA	Title I	112,072	109,707	125,454	90,353	61,063
OIE	Title IVA Discretionary	265,000	216,370	223,528	22,000	-0-
BIA	Special Ed. 94-142	52,000	-0-	23,500	20,750	25,750
OIE	Title VII Bilingual	-0-	-0-	-0-	154,550	175,000
N.C. Tribe	Crisis Center	-0-	-0-	-0-	40,000	-0-
BIA	Johnson O'Malley	33,018	28,389	22,614	-0-	-0-
BIA	Title IVB Library	3,300	2,500	9,229	2,000	-0-
	TOTAL FUNDING	$1,722,388	$1,498,090	$1,289,223	$ 765,651	$ 621,345
% Reduction from 1979 Base Year		0%	13%	25%	56%	64%
Enrollment (¼ Indian Blood)		311.0	246.5	210.0	161.5	132.0

```
                                    Projected ADM by Program for 1979-80
25704 C BUSBY HIGH                                                                                MON, AUG 20, 1979,  1:36 PM
-------------------------------------------------------------------------------------------------------------------------------

Basic Program        Instructional  Weight   Weighted   Boarding  Weight   Weighted      Dorm  Weight   Weighted           Totals
                               ADM  Factors  Inst ADM        ADM  Factors  Brd ADM        ADM  Factors  Dorm ADM
  Kindergarten                16.0     1.00      16.0         .0     1.40       .0         .0     1.40        .0            16.0
  1-3                         56.0     1.20      67.2       10.0     1.40     14.0         .0     1.40        .0            81.2
  4-8                        129.0     1.00     129.0       42.0     1.25     52.5         .0     1.25        .0           181.5
  9-12                       110.0     1.30     143.0       39.0     1.25     48.8         .0     1.25        .0           191.8
Subtotals                   ======                        ======                       ======
  Basic Student Units        311.0                          91.0                           .0

Supplementary Programs
  K-3  Bilingual Instr        72.0      .20      14.4                                                                      14.4

Special Education (Full Time)
  Deaf                          .0     3.00        .0                                                                        .0
  Severely Multi-Hand.          .0     3.00        .0                                                                        .0
  Emotionally Dist.             .0     1.00        .0      ATTENTION                                                         .0
  Specific Learn Disab.         .0     1.00        .0                 The entitlement calculation will be correct           .0
  Mentally Retard.             1.0     1.00       1.0                 only if these student count projections are          1.0
                                                                      correct.   If your offical Fall  membership
Special Education (Part Time)                                         count is higher,  then the entitlement will
  Speech Impairment           26.0      .50      13.0                 increase, and,  if the membership is lower,          13.0
  Hard of Hearing               .0      .25        .0                 then the entitlement will be less.                     .0
  Visually Handicapped         1.0      .25        .3                                                                        .3
  Orthopedically Impair.       1.0      .25        .3                                                                        .3
  Other Health Impaired         .0      .25        .0                                                                        .0
  Emotionally Dist.             .0      .50        .0                                                                        .0
  Specific Learn Disab.       22.0      .50      11.0                                                                      11.0
  Mentally Retard.             4.0      .50       2.0                                                                       2.0

Intense Resid Guide                                           .0      .50       .0                                           .0
Subtotal                                       ======                      ======                         ======         ======
  Weighted Student Units                        397.1                       115.3                             .0          512.4

Small School Adjustments       .0 (100-X)/200*X             4.1 (100-X)/200*X            .0 (100-X)/200*X                  4.1

                                                                                                                    -----------
                                                                                      TOTAL WEIGHTED STUDENT UNITS !   516.5 !
                                                                                                                    -----------

The base value of one unit is  $1,690.  when multiplied by the total weighted student units,       UNADJUSTED ------------------
 the total unadjusted estimated entitlement for the school is     $872,792.13.                      ESTIMATED !    $872,792.13!
                                                                                                 ENTITLEMENT ------------------

Through the operation of the formula phase in provisions, this school is limited to a loss of -10%.   ADJUSTED ------------------
with a recorded FY79 expenditure of    $970,000., the unadjusted entitlement represents              ESTIMATED !    $873,000.00!
a loss of  -10%.  In applying the phase in provision, the adjusted entitlement becomes    $873,000.  ENTITLEMENT ------------------

Your first quarter apportionment of 30% of the entitlement is estimated to be     $261,900.00
That amount is approved as the FY 1980 1st quarter apportionment.

_______________________________         _______________________________         _______________________________
Edward G. Marich-Budget Officer         Earl J. Barlow-Director O.I.E.P.        Joseph W. Correll-Asst Dir,Financial Mgt
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972,792

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                                        ALLOTMENT CALCULATION FORM
C5006 BUSBY HIGH                 MT                                                           ADDITIONAL ALLOTMENT CALCULATIONS'
------------------------------------------------------------------------------------------------------------------------------
TRANSPORTATION
  Day Students
      Average Daily Mileage        260.0  X   .85 = $    221.00
      Average Daily Students        43.0  X   .61 = $     26.23
                                                      -----------
                                                 $    247.23  X  180 Days = $  44501.40                  $    44501.40

  Residential Students
      Total Miles Transported
        0 - 100                   1355.0  X  3.20 = $   4336.00
       101 - 350                  3069.0  X  1.60 = $   4910.40
       350 +                       758.0  X   .48 = $    363.84
       Air Miles                  6651.0  X   .60 = $   3990.60
                                                      -----------
                                                 $  13600.84                                            $    13600.84

The Total Unadjusted Transportation Allotment is $   58102.24                                          $    58102.24

The Unadjusted Basic Allotment (Instructional/Residential + Transportation) is $   825172.27              $   825172.27

Phase-in Provisions
  Through the operation of the Formula Phase-in Provisions, schools are limited to a loss of -10%.   ADJUSTED ----------------
  With a Recorded FY79 Expenditure Of $    1256998.  The Unadjusted Basic Allotment Represents          BASIC $    1131298.20|
  a loss of  -34%.  In applying the Phase-in Provision, the Adjusted Basic Allotment Becomes       ALLOTMENT ----------------
  $    1131298.

ADDITIONAL FUNDS

School Board Training Fund                                                                              $     5000.00
  These funds may only be expended if a School Board exists in accordance with  25 CFR Part 31h.2(r).

The Total Allotment for Budget Activity 3100 is $  1136298.20                                          $  1136298.20


  Minor Maintenance and Minor Repair Fund                                                               $     4825.96

  Operation and Maintenance for Contract Schools not receiving services from BIA                        $         .00

                                                                                                   ----------------
THE TOTAL ALLOTMENT FOR ALL FUNDS IS $  1141124.16                                          TOTAL $    1141124.16|
                                                                                         ALLOTMENT ----------------
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C5005 BUSHY HIGH MT

ALLOTMENT CALCULATION FORM

INSTRUCTIONAL AND RESIDENTIAL ALLOTMENT

	INSTRUCTIONAL ADM	WEIGHT FACTORS	WEIGHTED INST ADM	BOARDING ADM	WEIGHT FACTORS	WEIGHTED BRD ADM	DORM ADM	WEIGHT FACTORS	WEIGHTED DORM ADM	WEIGHTED TOTALS
BASIC PROGRAM										
Kindergarten	18.00	1.00	18.00	1.00	1.40	1.40	.00	1.40	.00	19.40
Grades 1-3	40.00	1.20	48.00	5.50	1.40	7.70	.00	1.40	.00	55.70
Grades 4-8	103.50	1.00	103.50	29.00	1.25	36.25	.00	1.25	.00	139.75
Grades 9-12	85.00	1.30	110.50	20.00	1.25	25.00	.00	1.25	.00	135.50
SUBTOTALS	246.50		280.00	55.50		70.35	.00		.00	
SUPPLEMENTAL PROGRAM										
Bilingual Program	.00	.20	.00							.00
EXCEPTIONAL CHILD PROGRAMS										
FULL TIME-HIGH SERVICE LEVEL										
Deaf	.00	3.00	.00	.00	.50	.00	.00	.50	.00	.00
Blind	.00	3.00	.00	.00	.50	.00	.00	.50	.00	.00
Severely Multihandicap.	1.00	3.00	3 .00	.00	.50	.00	.00	.50	.00	.00
Severely Retarded	.00	3.00	.00	.00	.50	.00	.00	.50	.00	.00
Hospital/Homebound Inst	.00	3.00	.00	.00	.50	.00	.00	.50	.00	.00
Sever. Emotionally Dist.	15.00	3.00	15.00	.00	.50	.00	.00	.50	.00	15.00
Emotion. Dist.(Non-Sev)	.00	1.00	.00	.00	.50	.00	.00	.50	.00	.00
Specific Learning Disab.	3 10.00	1.00	10.00	.00	.50	.00	.00	.50	.00	10.00
Mentally Retarded	3 14.00	1.00	3 14.00	.00	.50	.00	.00	.50	.00	14.00
SUBTOTALS	3 29.00		39.00	.00		.00	.00		.00	
PART TIME-MODERATE SERVICE LEVEL										
Emotionally Distorbed	.00	.50	.00	.00	.25	.00	.00	.25	.00	.00
Specific Learning Disab.	31.00	.50	15.50							15.50
Mentally Retarded	9.00	.50	4.50	.00	.25	.00	.00	.25	.00	4.50
Multihandicapped	.00	.50	.00	.00	.25	.00	.00	.25	.00	.00
Hearing Impaired	.00	.25	.00							.00
Visually Handicapped	.00	.25	.00							.00
Orthopedically Impaired	.00	.25	.00	.00	.25	.00	.00	.25	.00	.00
Other Health Impaired	.00	.25	.00	.00	.25	.00	.00	.25	.00	.00
Speech Impaired	.00	.25	.00							.00
SUBTOTALS	40.00		20.00	.00		.00	.00		.00	
Intense Resident. Guid.				.00	.50	.00	.00	.50	.00	.00
SMALL SCHOOL ADJUSTMENTS (100-X)/200*X			.00			12.35			.00	12.35

TOTAL WEIGHTED STUDENT UNITS | 421.70 |

THE BASE VALUE OF ONE UNIT IS $ 1819. WHEN MULTIPLIED BY THE TOTAL WEIGHTED STUDENT UNITS,
THE TOTAL UNADJUSTED INSTRUCTIONAL/RESIDENTIAL ALLOTMENT FOR THE SCHOOL IS $ 767070.03.

INSTRUCTIONAL
RESIDENTIAL $ 767070.03
ALLOTMENT

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                                                   ALLOTMENT CALCULATION FORM
C5006 BUSBY HIGH                            MT
                                                                                                  ADDITIONAL ALLOTMENT CALCULATIONS
-----------------------------------------------------------------------------------------------------------------------------------
TRANSPORTATION
  Day Students
      Average Daily Mileage          260.0  X    .85 = $    221.00
      Average Daily Students          43.0  X    .61 = $     26.23
                                                          ------------
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      Total Miles Transported
         0 - 100                    1355.0  X   3.20 = $   4336.00
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                                                        -----------
                                                       $  13600.84                                                  $     13600.84

The Total Unadjusted Transportation Allotment is $   58102.24                                                       $     58102.24

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  a loss of  -34%.  In applying the Phase-in Provision, the Adjusted Basic Allotment Becomes           ALLOTMENT ----------------
  $    1131298.


ADDITIONAL FUNDS

School Board Training Fund
  These funds may only be expended if a School Board exists in accordance with  25 CFR Part 31h.2(f).        $      5000.00

The Total Allotment for Budget Activity $100 is $  1136298.20                                              $    1136298.20


  Minor Maintenance and Minor Repair Fund                                                                   $      4825.96

  Operation and Maintenance for Contract Schools not receiving services from BIA                            $          .00


THE TOTAL ALLOTMENT FOR ALL FUNDS IS $  1141124.16                                                  ----------------
                                                                                                  TOTAL $    1141124.16
                                                                                              ALLOTMENT ----------------
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C50-06 BUSHY SCH MT2

ALLOTMENT CALCULATION FORM

04/24/81

PAGE 1

INSTRUCTIONAL AND RESIDENTIAL ALLOTMENT

	INSTRUCTIONAL ADM	WEIGHT FACTORS	ADJ ALLOT. FOR PROGRAM	BOARDING ADM	WEIGHT FACTORS	ADJ ALLOT. FOR PROGRAM	DORM ADM	WEIGHT FACTORS	ADJ ALLOT. FOR PROGRAM	TOTALS
BASIC PROGRAMS										
KINDERGARTEN	14.00	1.00	$40,488.26							$40,488.26
GRADES 1 TO 3	39.50	1.20	$137,081.69	3.00	1.40	$15,575.58	.00	1.40	$.00	$152,657.27
GRADES 4 TO 8	87.50	1.00	$253,051.64	13.00	1.25	$61,854.74	.00	1.25	$.00	$314,906.38
GRADES 9 TO 12	69.00	1.30	$259,414.09	5.00	1.25	$23,790.28	.00	1.25	$.00	$283,204.37
SUBTOTALS	210.00		$690,035.68	21.00		$101,220.60	.00		$.00	
SUPPLEMENTAL PROGRAMS										
BILINGUAL PROGRAM	.00	.20	$.00							$.00
INTENSE RESIDENT. GUID.				.00	.50	$.00	.00	.90	$.00	$.00
EXCEPTIONAL CHILD PROGRAMS										
FULL-TIME HIGH SERVICE LEVEL										
DEAF	.00	3.00	$.00							$.00
BLIND	.00	3.00	$.00							$.00
SEVERELY MULTIHANDICAPPED	.50	3.00	$4,338.02							$4,338.02
SEV/PROFOUNDLY RETARDED	.00	3.00	$.00							$.00
SEV EMOTIONALLY DISTURBED	.50	3.00	$4,338.02							$4,338.02
SPECIFIC LEARNING DISABLE	7.50	1.00	$21,690.14							$21,690.14
MENTALLY RETARDED	1.00	1.00	$2,892.01							$2,892.01
SUBTOTALS	9.50		$33,258.19	.00	.50	$.00	.00	.50	$.00	$.00
PART-TIME MODERATE SERVICE LEVEL										
EMOTIONALLY DISTURBED	.50	.50	$723.00							$723.00
SPECIFIC LEARNING DISABLE	5.00	.50	$7,230.04							$7,230.04
MENTALLY RETARDED	4.50	.50	$6,507.04							$6,507.04
MULTIHANDICAPPED	.00	.50	$.00							$.00
HARD OF HEARING	.00	.25	$.00							$.00
VISUALLY HANDICAPPED	.00	.25	$.00							$.00
ORTHOPEDICALLY IMPAIRED	.00	.25	$.00							$.00
OTHER HEALTH IMPAIRED	.00	.25	$.00							$.00
SPEECH IMPAIRED	10.50	.25	$7,606.00							$7,606.00
SUBTOTALS	20.50		$22,066.08	.00	.25	$.00	.00	.25	$.00	$.00

THE BASE VALUE OF ONE UNIT IS $2,022.00. WHEN MULTIPLIED BY THE TOTAL WEIGHTED STUDENT UNITS.
THE TOTAL ADJUSTED INSTRUCTIONAL/RESIDENTIAL ALLOTMENT FOR THE SCHOOL IS $846,580.55.

INSTRUCTIONAL AND RESIDENTIAL ALLOTMENT $846,580.55

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                                              ALLOTMENT CALCULATION FORM                                            PAGE    2
 CS0-06 RUSBY SCH                   MT2              04/24/81                        ADDITIONAL ALLOTMENT CALCULATIONS
--------------------------------------------------------------------------------------------------------------------------

TRANSPORTATION
  DAY STUDENTS
    AVERAGE DAILY MILEAGE                107.20  X  0.95 =  $       101.84
    AVERAGE DAILY STUDENTS                69.90  X  0.61 =  $        42.64
                                                              -------------
                                                                    144.48  X  180 DAYS = $     26,006.40       $    26,006.40

RESIDENTIAL STUDENTS
    TOTAL MILES TRANSPORTED
      0 - 100                            357.50  X  3.44 =  $     1,229.80
    101 - 350                          3,083.00  X  1.72 =  $     5,302.76
    350 +                              1,498.00  X  0.52 =  $       778.96
    AIR MILES                              0.00  X  0.65 =  $         0.00
                                                              -------------
                                                                  7,311.52                              $     7,311.52

THE TOTAL UNADJUSTED TRANSPORTATION IS $     33317.92                                                         33,317.92

THE UNADJUSTED BASIC ALLOTMENT (INSTRUCTIONAL/RESIDENTIAL + TRANSPORTATION) IS $     625,217.98               625,217.98

PHASE-IN PROVISIONS
  THROUGH THE OPERATION OF THE FORMULA PHASE-IN PROVISIONS, SCHOOLS ARE LIMITED TO A LOSS OF 30%
  AND A GAIN OF 70%.  WITH A RECORD FY79 EXPENDITURE OF $   1,256,998.00. THE UNADJUSTED BASIC ALLOTMENT     ADJUSTED-------------
  REPRESENTS A LOSS OF  50.27%.  IN APPLYING THE PHASE-IN PROVISION. THE ADJUSTED BASIC ALLOTMENT BECOMES     BASE $     879,898.60
  $    879,898.60.                                                                                           ALLOTMENT------------


ADDITIONAL FUNDS

SCHOOL BOARD TRAINING FUND                                                                                             5,000.00

THE TOTAL ALLOTMENT FOR BUDGET 3100  SERIES  IS $    884898.60                                                       884,898.60

THIS ALLOTMENT WAS COMPUTED USING OCTOBER-NOVEMBER COUNT
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C60-06 RUSBY SCH MT2

ALLOTMENT CALCULATION FORM
01/20/82

PAGE 1
INSTRUCTIONAL AND RESIDENTIAL ALLOTMENT

	INSTRUCTIONAL ADM	WEIGHT FACTORS	WEIGHTED INST ADM	BOARDING ADM	WEIGHT FACTORS	WEIGHTED BND ADM	DORM ADM	WEIGHT FACTORS	WEIGHTED DORM ADM	WEIGHTED TOTALS
BASIC PROGRAMS										
KINDERGARTEN	15.00	1.00	15.00							15.00
GRADES 1 TO 3	38.00	1.20	45.60	1.00	1.40	1.40	.00	1.40	.00	47.00
GRADES 4 TO 8	58.50	1.00	58.50	1.50	1.25	1.88	.00	1.25	.00	60.38
GRADES 9 TO 12	50.00	1.30	65.00	1.00	1.25	1.25	.00	1.25	.00	66.25
SUBTOTALS	161.50		184.10	3.50		4.53	.00		.00	
SUPPLEMENTAL PROGRAMS										
BILINGUAL PROGRAM	.00	.20	.00							.00
INTENSE RESIDENT. GUID.				.00	.50	.00	.00	.50	.00	.00
EXCEPTIONAL CHILD PROGRAMS										
FULL-TIME HIGH SERVICE LEVEL										
DEAF	.00	3.00	.00							.00
BLIND	.00	3.00	.00							.00
SEVERELY MULTIHANDICAPPED	.00	3.00	.00							.00
SEV/PROFOUNDLY RETARDED	.00	3.00	.00							.00
SEV EMOTIONALLY DISTURBED	.00	3.00	.00							.00
SPECIFIC LEARNING DISABLE	6.00	1.00	6.00							6.00
MENTALLY RETARDED	1.00	1.00	1.00							1.00
SUBTOTALS	7.00		7.00	.00	.50	.00	.00	.50	.00	.00
PART-TIME MODERATE SERVICE LEVEL										
EMOTIONALLY DISTURBED	1.00	.50	.50							.50
SPECIFIC LEARNING DISABLE	9.50	.50	4.75							4.75
MENTALLY RETARDED	.00	.50	.00							.00
MULTIHANDICAPPED	.00	.50	.00							.00
HARD OF HEARING	.00	.25	.00							.00
VISUALLY HANDICAPPED	.00	.25	.00							.00
ORTHOPEDICALLY IMPAIRED	.00	.25	.00							.00
OTHER HEALTH IMPAIRED	.00	.25	.00							.00
SPEECH IMPAIRED	11.00	.25	2.75							2.75
SUBTOTALS	21.50		8.00	.00	.25	.00	.00	.25	.00	.00
										203.63
SMALL SCHOOL ADJUSTMENTS * (1100 * X1/200 **2)	.00			1.69			.00			1.69
TOTAL WEIGHTED STUDENT UNITS										205.32

THE BASE VALUE OF ONE UNIT IS $1,[illegible] MULTIPLIED BY THE TOTAL WEIGHTED STUDENT UNITS.
THE TOTAL UNADJUSTED INSTRUCTIONAL/RESIDENTIAL ALLOTMENT FOR THE SCHOOL IS $403,264.40.

INSTRUCTIONAL AND RESIDENTIAL ALLOTMENT $403,264.40

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 C50-06 BUSBY SCH                MT2         ALLOTMENT CALCULATION FORM                                                   PAGE    2
                                                      01/20/82                        ADDITIONAL ALLOTMENT CALCULATIONS
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TRANSPORTATION
  DAY STUDENTS
     AVERAGE DAILY MILEAGE                    149.70  X  0.85 = $        127.25
     AVERAGE DAILY STUDENTS                    51.20  X  0.61 = $         31.23
                                                                  -------------
                                                                         158.48  X  180 DAYS = $      28,526.40      $     28,526.40


RESIDENTIAL STUDENTS
     TOTAL MILES TRANSPORTED
       0 - 100                                 50.00  X  3.20 = $        160.00
     101 - 350                                  0.00  X  1.60 = $          0.00
     350 +                                      0.00  X  0.48 = $          0.00
     AIR MILES                                  0.00  X  0.60 = $          0.00
                                                                  -------------
                                                                         160.00                                $        160.00

THE TOTAL UNADJUSTED TRANSPORTATION IS $    28686.40                                                                  28,686.40


THE UNADJUSTED BASIC ALLOTMENT (INSTRUCTIONAL/RESIDENTIAL + TRANSPORTATION) IS $    431,934.88                           431,934.88

ADDITIONAL FUNDS

SCHOOL BOARD TRAINING FUND                                                                                                4,063.49

THE TOTAL ALLOTMENT FOR BUDGET 3100  SERIES  IS $    435998.37                                                          435,998.37

THIS ALLOTMENT WAS COMPUTED USING OCTOBER-NOVEMBER COUNT
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BUSBY SCHOOL BOARD MINUTES

SPECIAL SESSION

NOVEMBER 12, 1981

PRESENT: William Tallbull, Chairman
Grace Bearquiver, Vice-Chairman
Matthew Two Moons, Sr., Member
Linwood Tallbull, Member
Doug Parker, Member
Dr. Ray S. Phipps, Superintendent
Ron Pisk, Secretary

GUESTS: William Dykstra
Chris Evertz
Allan Troppe
Basil Brave Heart
Monty Parker
Dr. Deward Millsap
Chuck Babcock

Meeting called to order by William Tallbull, Chairman, at 7:17 PM

1. Monty Parker appeared before the Board to discuss the Share Cropping arrangement and gave the following information:

   (1) Currently 900 acres are being planned for farming

   (2) 170 Round Bales (600-800 lbs)

   (3) 650-700 Bushels of Barley were produced this year

   (4) Approximately 650 acres are currently planted in Winter Wheat

   (5) Federal Crop Insurance has been purchased for $4.00 per acre for the Winter Wheat

   (6) Payment of School's share for the Barley will be between now and mid-December

   (7) If in the event anything happens to the Winter Wheat insurance will guarantee $99.00 per acre. 650 acres are covered under this arrangement. Remaining acreage will be planted in Barley next year and also insured

   (8) Some fencing has been accomplished

   Doug Parker excused himself from the meeting.

2. A motion was made and seconded to approve the Lease Agreement between Busby School and Monty Parker as reviewed by both parties.
   2 Yea, 1 Abstination MOTION CARRIED (Copy attached)

   Doug Parker returned to the meeting.

Busby School Board Minutes
Special Session
November 12, 1981
Page Two

3. A motion was made and seconded to accept the 17.1% Indirect Cost rate for FY-82 proposed by the Inspectors General Office
VOTE WAS UNANIMOUS

4. A motion was made and seconded to approve the following bills:

1.	Popular Subscription Service	$ 930.11
2.	Selby's Essco	$1,600.00
3.	Lone Star Camera	$ 829.00

VOTE WAS UNANIMOUS

5. Discussions were held concerning the FY-82 General Fund Budget. The following recommendations were discussed for the FY-82 General Fund Program:

Reduction of positions (General Fund)

* a. Commercial Teacher (High School) - 1
* b. Physical Education Teacher (High School) - 1
* c. Social Studies Teacher (High School) - 1
** d. Three Dormitory Positions - 3
* e. Combine Elementary Classroom (Grades 4 & 5) - 1
* f. Music Teacher (High School & Elementary ½ time) - ½
* g. Librarian (High School & Elementary to ½ time) - ½
*** h. Librarian Aide - 1
*** i. 7-8 Grade Aide - 1
*** j. Truancy Officer - 1
*** k. Automotive Worker/Bus Driver - 1
*** l. Audio/Visual Aide - 1
*** m. Career Awareness Aide - 1

* All Professional positions will become vacant at the end of the First Semester, January 15, 1982.

** To become effective as soon as the Bureau of Indian Affairs can initiate appropriate Reduction in Force procedures.

*** Positions to be eliminated or covered by other programs as soon as seniority and job qualifications are established and a 30-day notice given to affected employees.

Other actions to be initiated immediately or as soon as legally possible:

a. Discontinue the Social Security (FICA) benefit to employees
b. Place Food Service on strict budget of $5,700.00 per month
c. Reduce budget for instructional supplies by $6,496.00
d. Reduce Athletic Budget by 1/3 or $4,000.00
e. Raise cost of adult meals to $2.00 per meal
f. Charge $.75 per lunch for students not eligible for free and reduced meals
g. Eliminate all student P.M. snacks

6. Recommendations for 1982-1983 School Year:
a. Eliminate 1 Full Time Administrative Position (Principal)
b. Contract or Direct Hire all remaining BIA Positions
c. Combine AV and Library Position (Reduce AV Director)
d. Combine 1 or 2 Elementary Classes based on enrollment
e. Close High School unless specific funds are generated to support this project such as vocational, etc.

7. After public discussion and careful consideration a motion was made and seconded to approve the recommendations as presented for General Fund FY-82, and the recommendations for 1982-1983 School Year. VOTE WAS UNANIMOUS

Meeting adjourned at 10:07 P.M.

Ron Fisk
Ron Fisk, Secretary

William Tallbull
William Tallbull, Chairman

December 3, 1981

Superintendent, Northern Cheyenne Agency

Reduction-in-force for Instructional Aid (C.G.) positions at Busby School

Area Director, Billings
Attention: Area Personnel Officer

The Busby School Board, which met on November 12, 1981, has informed this office by letter that it intends to close the dormitories and requests that the paperwork be initiated to conduct a reduction-in-force for all dormitory positions.

The three Instructional Aid Child Guidance positions which will be affected are ALL 7015F, ALL 7018F, and ALL 7019F.

This office concurs with the Busby School Board's decision to close the dormitories and is requesting your office to conduct a reduction-in-force for the positions stated above.

The Busby School Board will meet again on Monday, December 7, 1981 to approve the November 12, 1981 Minutes and we will send you the approved resolution to close the dormitories and to conduct a reduction-in-force. The Board has set a date of January 4, 1981 to complete the reduction-in-force. We realize that employees must be given a thirty day notice, and final action will probably be completed later in the month.

cc: President, NCT
Chairman, Busby School Board ✓
Superintendent, Busby School

FEMerchant:arb 12/03/81

Busby School
Telephone (406) 592-3546
Busby, Montana 59016

BUSBY SCHOOL BOARD
REGULAR SESSION
May 11, 1981

PRESENT: William Tall Bull, Chairman
Linwood Tall Bull, Member
Doug Parker, Member
Dr. Ray S. Phipps, Superintendent
Ron Pisk, Secretary

GUESTS: William G. Minard
Gilbert Littlewolf

Meeting was called to order at 7:20 P.M.

1. A motion was made and seconded to approve the minutes of:
April 6, 1981 as written
April 16, 1981 as written,
May 4, 1981 except for the correction of Item 3, in which the Board referred the matter concerning Alvina Moore's on be trarsferred to the High School Principal.

Also, that Item 1 (b) be changed to read -
1/3 Insurance) Paid at harvest or at time of crop insurance settlement by Busby School
1/3 Fertilizer)
May 6, 1981 as written

2. A proposal to evaluate all Programs at Busby School was submitted by William (to) Roberts of American Indian Technical Services, Inc. The Board reviewed the proposal. No action taken.

3. Mr. William Minard presented a modification for Title I. Increasing the grant award by $11,735.00.
A motion was made and seconded to approve Modification #3 of Contract #C50C14205153 for Title I, FY-81, which increased the original grant award by $11,735.00. Vote was UNANIMOUS

4. A motion was made and seconded to approve the proposed 1981-1982 Busby School Calendar. A copy which is attached will become a permanent part of these minutes. Vote was UNANIMOUS

5. By general concensus the Board allowed the Superintendent to charge a fee for allowing Staff to house horses on School land, this will allow the costs of those horses.

BUSBY SCHOOL BOARD MINUTES
REGULAR SESSION
May 11, 1981
Page Two

6. Discussions were held concerning the letter of request submitted by Gilbert Littlewolf for additional pay in relation to his Dorm Director's responsibility.
A motion was made and seconded to table this request and take the matter of advisement. Also that a decision will be made on this subject by the end of this Fiscal Year 1981. UNANIMOUS

7. Mr. Robert Bailey, Curriculum Coordinator, presented the proposed curriculum guide for the Language Arts and Mathematics "A Basic Skill Program" for grades K-8 to the Board. He briefly discussed the aspects of this program.
A motion was made and seconded to approve the guide as presented by Mr. Robert Bailey. Vote was UNANIMOUS

8. A motion was made and seconded to furlough the following individuals for the summer months at Busby School.

DORMITORY: Claudine Pine, Instructional Aide
Larry Bigback, Instructional Aide
Marietha Charette, Instructional Aide
Gilbert Littlewolf, Instructional Aide
Louise Fisher, Instructional Aide

TRANSPORTATION: Steve Littlebird (2 additional weeks) Director
Tex Curley, Bus Driver/Custodian
Austin Two Moons, Sr. (1 month under JOM) Bus Dri

KITCHEN: Eva Kings, Cook
Marie Littlewolf, Cook
Julie Elkshoulder, Food Service Worker
Ralph McBenge, Food Service Worker
Esther Westika, Food Service Worker

ADMINISTRATION: Carlyne Bement, High School Secretary
Pauline Parker, Elementary Secretary

Vote was UNANIMOUS

9. A motion was made and seconded to go into a Reduction In Force action due to the funding reduction for FY-82. The following positions are subject to this action:

CERTIFIED STAFF: Art Teacher
Industrial Arts Teacher
High School Special Education Teacher
Science Teacher
High School Reading and English Teacher
1/2 Speech Pathologist
Elementary P.E. Teacher

NON-CERTIFIED STAFF:
Home Farming Director
High School Aide
Night Watchman
School Nurse
1/2 Bus Driver
1/2 Bus Driver

Vote was UNANIMOUS

BUSBY SCHOOL BOARD MINUTES
REGULAR SESSION
May 11, 1981
Page Three

10. A motion was made and seconded that the following letter be sent to all Dormitory and Kitchen Staff to clearly state their intent by the means of the following letter. Vote was UNANIMOUS

By action of the Board May 11, 1981 this letter is to request your voluntary retirement. Verification of your decision is required within ten days of this date ; May 13, 1981. Please indicate your decision by checking the appropriate response and your signature with date.

Should you opt not to retire: it is the intention of the Board at this time to go through a R.I.F. in your area of employment (area) on a seniority basis (last hired first RIF'ed) until an equal dollar savings is reached (equal to the dollars that would have been saved, had the eligible individual retired).

11. A motion was made and seconded to approve the Summer School Program as presented by Johnson O'Malley PAC. Vote was UNANIMOUS

12. A motion was made and seconded to approve Gretchen Grosse's resignation as the High School English Teacher. Vote was UNANIMOUS

13. By general concensus the Board allowed the Superintendent to go ahead with proceeding to set up annual negotiations between the Busby School and the BIA.

A motion was made and seconded to adjourn at 11:34 P.M.
Vote was UNANIMOUS

Ron Pisk

Ron Pisk, Secretary

William Tall Bull, Chairman

AUG 11 1981

OFFICE OF PUBLIC INSTRUCTION
STATE CAPITOL
HELENA, MONTANA 59601
(406) 449-3095

Ed Argenbright
Superintendent

Jerry
Marie / Bill

August 7, 1981

Dr. Roy Phipps, Superintendent
Busby School
P.O. Box 38
Busby, MT 59016

Dear Dr. Phipps:

This letter is in regard to the attached memo SP81-20 dated July 24, 1981 from the Mountain Plains Region, FNS, USDA concerning BIA school eligibility for Child Nutrition Programs.

You will note that BIA contract schools are determined to be ineligible for participation in the school lunch and breakfast programs. The Food Service Equipment Assistance program will be terminated as of October 1, 1981.

As indicated in the memo, you are eligible to participate as a commodity only school and in the Special Milk Program at this time. You should be aware, however, that within 90 days, provisions pertaining to both programs under the Reconciliation Act of 1981 will become effective. These pertinent provisions are that Commodity Only schools must serve a lunch meeting the school lunch requirements and must implement free and reduced price meal policy as in the National School Lunch Program. In return, the school would receive commodities and cash reimbursement for those meals.

In regard to the Special Milk Program, when the provisions of the Reconciliation Act of 1981 become effective for Commodity Only schools, these schools will not be able to participate in the Special Milk Program.

Your choices then are Commodity Only or Special Milk Program. The Commodity Only pertains to lunch and not breakfast. Your breakfast program will not be reimbursed. Until provisions of the act become effective, you will receive approximately 13 cents in commodities per meal. After that time, you will receive approximately 21 cents in commodities plus 38.75 cents cash for free lunches and 18.75 cents cash for reduced price meals.

If you choose the Special Milk Program all milk served to children will be eligible for 5 cents per one-half pint reimbursement.

If you choose either program, please request a program agreement from me. In the meantime if you have any questions, please let me know.

Sincerely,

H. Brisbin Skiles

H. BRISBIN SKILES
Manager
Division of School Food Services

Serve out of General budget.

HBS:jm

H. BRISBIN SKILES

United States Department of Agriculture
Food and Nutrition Service
Mountain Plains Region
2420 West 26th Avenue
Denver, CO 80211

MONTANA OPI

S.A

JUL 2 4 1981

SP 81-20

Subject: Bureau of Indian Affairs (BIA)-School Eligibility

To: STATE AGENCY DIRECTORS
(Special Nutrition Programs)

Several State Agencies have denied applications from BIA-contract schools for participation in the School Nutrition Programs. Although BIA-contract schools and BIA-operated schools are ineligible to participate in the National School Lunch Program, School Breakfast Program, and Food Service Equipment Assistance Program, they are eligible to participate in the Special Milk Program and to receive commodities as commodity-only schools. Moreover, those BIA-schools which have been participating in the National School Lunch Program prior to the issuance of FNS 776-1 in 1965 may continue to participate. Please notify any School Food Authority or school which may be affected.

Your cooperation is appreciated.

Brian Allison

BRIAN ALLISON
Regional Director
Special Nutrition Programs

United States Department of the Interior
BUREAU OF INDIAN AFFAIRS
BILLINGS AREA OFFICE
316 NORTH 26TH ST.
BILLINGS, MONTANA 59101

IN REPLY REFER TO:
Education

November 24, 1981

Administrator
Busby School
Busby, Montana 59016

Enclosed are copies of two memoranda concerning the issue of the eligibility of Bureau and contract schools to participate in the U.S. Department of Agriculture National School Lunch Program and the School Breakfast Program.

The memorandum from the Deputy Administrator for Special Nutrition Programs is difficult to read because it is a bad reproduction, but it does state that as an interim measure all such schools affected by the previous ruling of ineligibility will be allowed to resume participation until a decision on the eligibility is finanlized.

Sincerely,

Verlin M. Belgarde
Area Education Program
Administrator

Enclosure

NOV 30 1981

UNITED STATES GOVERNMENT

memorandum

DATE: NOV 17 1981

REPLY TO ATTN OF: DEPUTY Director, Office of Indian Education Programs

SUBJECT: Participation in School Nutrition Programs

TO: Agency Superintendents for Education
Area Education Program Administrators

As you are aware, the Office of Indian Education Programs has been negotiating with the Department of Agriculture concerning the eligibility of BIA and contract schools for participation in the National School Lunch Program and the School Breakfast Program.

There were a number of schools declared ineligible for participation in school nutrition programs for this school year. This had an especially adverse affect on those contract schools that had been participating in the National School Lunch Program.

The attached memorandum from the Deputy Administrator for Special Nutrition Programs to regional administrators indicates that those BIA and contract schools which were declared ineligible will be allowed to resume participation in whatever programs they previously received.

This is an interim measure until USDA reaches a final policy determination on BIA school eligibility. Please share this information with the affected schools in your agency or area.

Thanks to those of you who responded so quickly to our earlier request for information on this subject. We will keep you informed of any further developments.

S. Dale Paxton, Jr.

Attachment

EDUCATION
NOV 23 1981

Buy U.S. Savings Bonds Regularly on the Payroll Savings Plan

Received
Nov 4-81

OCT 14 1981

FNS:SPD:131

BIA-School Eligibility

Susan Preston
10-19-81

Regional Administrator
All Regions

THRU: Andrew P. Hornsby, Jr.
Deputy Administrator
for Regional Operations

Our policy has been that BIA schools and BIA-contract schools are eligible to participate in the Special Milk Program or the Commodity-only Program, but not in the National School Lunch Program or the School Breakfast Program. (The Food Service Equipment Assistance Program, for which these schools have also been ineligible, expired on October 1, 1981.)

As mandated by the Omnibus Reconciliation Act of 1981, P.L. 97-35, the Commodity-only Program will change drastically as of November [illegible] 1981. The imminent changes in this program are causing us to reconsider our long-standing policy regarding BIA-school eligibility. Therefore, we ask that those BIA schools and BIA-contract schools which were dropped from any of the School Nutrition Programs at the beginning of school year 1981-82 be allowed to resume participation until such time as a decision on BIA-school eligibility is finalized.

If you have any questions, please contact us.

Signed

MARGARET O'K. GLAVIN
Deputy Administrator for
Special Nutrition Programs

United States Department of the Interior
BUREAU OF INDIAN AFFAIRS
WASHINGTON, D.C. 202

Indian Education
Code 506

DEC 11 1981

MEMORANDUM

To: Agency Superintendents for Education
Area Education Program Administrators

Acting

From: Director, Office of Indian Education Programs

Subject: Participation in USDA School Nutrition Programs

This is a follow-up to the November 17 memorandum regarding the eligibility of BIA and contract schools for participation in the National School Lunch Program and other school nutrition programs.

The attached memorandum from the Deputy Administrator for Special Nutrition Programs provides updated information regarding the USDA's position on this subject. In summary, BIA and contract schools will continue to be eligible for the Commodity-Only Program or for the Special Milk Program. Those schools that were allowed to resume participation in the National School Lunch Program will be able to do so until February 1, 1982.

The Department of Agriculture, Office of Management and Budget, and this office will continue to discuss the operation of food service programs in BIA and contract schools. Please share this very important information with schools in your Agency or Area.

Questions regarding this subject can be referred to the Central Office, Division of Student Support Services, Mail Code 506, or call (202) 343-4493.

Noah Allen

Attachment

EDUCATION
DEC 17 1981

United States Department of the Interior
BUREAU OF INDIAN AFFAIRS
BILLINGS AREA OFFICE
316 NORTH 26TH ST.
BILLINGS, MONTANA 59101

IN REPLY REFER TO:

December 18, 1981

Dr. Ray Phipps
Superintendent
Busby School
Busby, Montana 59016

Dear Dr. Phipps:

Attached are copies of two memoranda, one from the Department of Agriculture detailing their policy decisions on the eligibility of BIA and BIA contract schools to participate in school lunch programs, and another memorandum from the central office transmitting the information and their interpretation on what it means.

We would urge each school administrator to carefully review these memoranda and use the central office contact point listed in the memorandum for questions on this matter.

Area Education Program
Administrator

Enclosure

RECEIVED
DEC 7 19[illegible]

. COPY -
UNITED STATES DEPARTMENT OF AGRICULTURE
FOOD AND NUTRITION SERVICE
Phone: Stan Garnett, ph 447-9065
School Program Division
WASHINGTON, DC 20250

REPLY TO ATTN OF: FNS:SPD:131

November 20, 1981

SUBJECT: BIA-School Eligibility

TO: Regional Administrator
All Regions

THRU: Andrew P. Hornsby, Jr.
Deputy Administrator
for Regional Operations

We have come to a policy decision that BIA-operated and BIA-contract schools will continue to be eligible for the Commodity-only Program (even though the program has been drastically revised as of November 11, 1981) or for the Special Milk Program (SMP).

Those BIA schools dropped from any of the School Nutrition Programs at the beginning of school year 1981-82 which were allowed to resume participation (as per our October 14 memorandum), as well as all other BIA schools presently participating in the National School Lunch Program and/or School Breakfast Program, will be allowed to continue to participate until February 1, 1982 (a date chosen because it is around the beginning of the second semester for most schools and the new Commodity-only regulations should be in place). By that date, such schools are to be converted to Commodity-only schools, to SMP-only schools, or to no-program schools. The only exception to this policy is that those BIA-operated schools that began participation in the National School Lunch Program prior to 1965 may continue their participation in that program.

Affected schools should be made aware of the provisions of the new Commodity-only Program and should know that commodities received under this program may also be used for a breakfast program. Schools should be advised to follow the regulatory requirements of Part 210.

State agencies are to administer the programs in BIA schools. If the State educational agency does not wish to administer the program, you may seek out an alternate agency for the BIA schools. If there is a legal problem which would preclude State-agency administration, the appropriate Regional office shall administer the programs in that State. We are in effect allowing for the split administration of non-public schools by separating out the BIA schools.

Regional Administrator

State or Regional offices may, at their option, choose to take agreements with the BIA on behalf of BIA schools, instead of with the BIA schools directly (the BIA would be acting as a School Food Authority).

For your information, the Department is presently discussing with the Office of Management and Budget (for Fiscal Year 1983) the possibility of a direct transfer of funds from USDA to the Department of Interior for the operation of food service programs in BIA schools similar to the system established for DOD overseas schools.

If you have any questions, please contact us.

/S/ Margaret O'K Glavin

MARGARET O'K. GLAVIN
Deputy Administrator for
Special Nutrition Programs

II.

FACILITIES AND PLANT MAINTENANCE

A. Contract Between Busby School Boatd and the Bureau of Indian Affairs

STANDARD FORM 26 JULY 1966
GENERAL SERVICES ADMINISTRATION
FED PROC. REG. (41CFR) 1-16 101

AWARD/CONTRACT

PAGE 1 OF 2

1. CONTRACT (Proc. Inst. Ident.) NO. C50-C-1420-5212
2. EFFECTIVE DATE OCT 0[illegible] 1979
3. REQUISITION/PURCHASE REQUEST/PROJECT NO.
4. CERTIFIED FOR NATIONAL DEFENSE UNDER BDSA REG. 2 AND/OR DMS REG. 1. RATING:

5. ISSUED BY CODE

Bureau of Indian Affairs
Billings Area Office
316 North 26th Street
Billings, Montana 59101

6. ADMINISTERED BY (If other than block 5) CODE

CO[illegible] COPY

7. DELIVERY
☐ FOB DESTINATION
☐ OTHER (See below)

8. CONTRACTOR CODE FACILITY CODE
NAME AND ADDRESS (Street, city, county, State, and ZIP code)

Busby School Board
Northern Cheyenne Reservation
Busby, Montana 59016

9. DISCOUNT FOR PROMPT PAYMENT

10. SUBMIT INVOICES (4 copies unless otherwise specified) TO ADDRESS SHOWN IN BLOCK
ATTN: Division of Education

11. SHIP TO/MARK FOR CODE

12. PAYMENT WILL BE MADE BY CODE

Administrative Services Center
P. O. Box 2088
Albuquerque, New Mexico 87103

13. THIS PROCUREMENT WAS ☐ ADVERTISED, ☒ NEGOTIATED, PURSUANT TO: ☐ 10 U.S.C. 2304 (a)( ) ☒ 41 U.S.C. 252 (c)( ) P.L. 93-638

14. ACCOUNTING AND APPROPRIATION DATA

C57/-04/0/3115/1190/$1,259,687.00
C50/-01/0/3215/2664/057/$177,616.00

LETTER OF CREDIT AUTHORIZED

15. ITEM NO.	16. SUPPLIES/SERVICES	17. QUANTITY	18. UNIT	19. UNIT PRICE	20. AMOUNT
	Subject: Cost reimbursement contract for the General Operations of Busby School.				
Section					
	SF 26 - Award/Contract				
I	SF 36 - Line Items/Schedule				
II	Plan of Operation/Budget				
III	Part 200 - Special Conditions				
IV	General Provisions, BAO-428				

21. TOTAL AMOUNT OF CONTRACT $ 1,437,303.00

CONTRACTING OFFICER WILL COMPLETE BLOCK 22 OR 26 AS APPLICABLE

22. ☒ CONTRACTOR'S NEGOTIATED AGREEMENT (Contractor is required to sign this document and return ALL copies to issuing office.) Contractor agrees to furnish and deliver all items or perform all the services set forth or otherwise identified above and on any continuation sheets for the consideration stated herein. The rights and obligations of the parties to this contract shall be subject to and governed by the following documents: (a) this award/contract, (b) the solicitation, if any, and (c) such provisions, representations, certifications, and specifications, as are attached or incorporated by reference herein. (Attachments are listed herein.)

26. ☐ AWARD (Contractor is not required to sign this document.) Your offer on Solicitation Number ______, including the additions or changes made by you which additions or changes are set forth in full above, is hereby accepted as to the items listed above and on any continuation sheets. This award consummates the contract which consists of the following documents: (a) the Government's solicitation and your offer, and (b) this award/contract. No further contractual document is necessary.

23. NAME OF CONTRACTOR
BY John Russell Jr
(Signature of person authorized to sign)

27. UNITED STATES OF AMERICA
BY
(Signature of Contracting Officer)

24. NAME AND TITLE OF SIGNER (Type or print)
John Russell, Jr.
Chairman, Busby School Board

25. DATE SIGNED
11/30/79

28. NAME OF CONTRACTING OFFICER (Type or print)
[illegible]
Area Contracts [illegible]

29. DATE SIGNED
NOV [illegible]

26-103

SECTION II

PLAN OF OPERATION/BUDGET

SECTION 100 - EDUCATION REQUIREMENTS

101. PURPOSE OF CONTRACT. The purpose of this contract is to give the Northern Cheyenne people and the Northern Cheyenne Tribe the opportunity to set policy and operate a creative, innovative educational program for Indian preschool through high school children at Busby, Montana. The Bureau of Indian Affairs will allow the Northern Cheyenne Busby School Board to use the educational facilities which it maintains at Busby, Montana.

102. SCOPE OF CONTRACT.

(a) The Contractor shall provide all necessary personnel and all materials, equipment, facilities, and services required to operate the school system, known as the Busby School, and as outlined under and more specifically detailed in clauses titled below:

(1) School operating facilities
(2) Number of Indian students to be provided education services by grades
(3) Personnel standards
(4) Length of school year and day
(5) Teaching load and class size
(6) Direction of school operation by Contractor
(7) Curriculum
(8) Food Service
(9) Student transportation service
(10) Records
(11) Reports

103. SCHOOL OPERATING FACILITIES.

(a) The school facilities will be operated in Government-owned facilities under a "Use Permit" to the Contractor.

Any capital improvements, repairs and maintenance will be the responsibility of the Government (Bureau) unless the Contractor requests and receives approval for permission to perform some of these functions from funds provided in the contract.

(b) The facility shall meet state standards for an educational institution.

104. NUMBER OF INDIAN STUDENTS TO BE PROVIDED EDUCATION SERVICES.

(a) The Contractor shall provide education and related services as outlined in this contract to eligible Indian students. The estimated maximum number of students to be enrolled and provided education services by grades during the school year of this contract are listed below:

	STUDENTS
GRADES	NUMBER
12	25
11	30
10	35
9	60
8	30
7	30
6	30
5	30
4	30
3	30
2	30
1	30
Preschool	30
TOTAL	420

(b) The Contracting Officer shall approve any increase to the estimated maximum student population of Busby School.

(c) The maximum student population in dormitories shall not exceed 120 unless approved by the Contracting Officer.

(d) Enrollment criteria for the Boarding School shall be in accordance with BIA procedures except as approved by the Contracting Officer.

(b) All records shall be maintained in a manner to minimize theft or destruction by fire.

114. FACILITIES MAINTENANCE.

The Contractor shall provide the necessary labor to perform the day-to-day routine operation and maintenance functions on Bureau-owned property at the Busby School facility including buildings, fixtures, structures, and grounds on a regularly scheduled and planned. basis.

Equipment, materials and supplies required to perform these duties may be obtained from the Branch of Plant Management, Bureau of Indian Affairs, located at the school.

115. REPORTS.

(a) The Contractor shall submit the following reports to the Contracting Officer:

(1) A program report certified by the Contractor shall be submitted within twenty (20) days following the close of each semester. This report shall reflect in sufficient detail for the three-month period:

1. Student enrollment totals by age and grade, as per State reports.
2. Average daily attendance as per State reports.
3. Specific information and details of progress toward goals and objectives as defined in the contract.
4. Evaluative comments of on-going progress.
5. Personnel training and development, including School Board.
6. Student - community participation.
7. Problems or difficulties encountered.
8. Fiscal status report from most recent reimbursement request.
9. Recommendations.

TRUE COPY

TRIBAL COUNCIL OF THE NORTHERN CHEYENNE
NORTHERN CHEYENNE RESERVATION
LAME DEER, MONTANA

RESOLUTION NO. 107(82)

A RESOLUTION OF THE NORTHERN CHEYENNE TRIBAL COUNCIL CALLING FOR A SPECIAL CONGRESSIONAL INVESTIGATION REGARDING GOVERNMENT RESPONSIBILITIES FOR PLANT MAINTENANCE AND REPAIR AT THE BUSBY SCHOOL; BUSBY, MONTANA.

WHEREAS, the Busby School, located at Busby, Montana, has for some years last past, been operated by duly elected members and representatives of the Northern Cheyenne Tribe and school is dedicated to the purpose of providing a quality education to Indian students; and,

WHEREAS, pursuant to contractural obligations of the Bureau of Indian Affairs, the Federal Government, by and through the Bureau of Indian Affairs is to provide funding for the educational requirements of the students and also the Federal Government is to provide capital improvements and repairs to the Busby School upon a timely basis; and,

WHEREAS, the Northern Cheyenne Tribal Council is concerned with the present condition and status of the Busby School and the surrounding area, and in particular the deteriorated physical plant and surrounding grounds; and,

WHEREAS, the Bureau of Indian Affairs is the bureau ultimately and primarily liable for the physical condition and environment of the Busby School; and,

WHEREAS, annual reports done and prepared have acknowledged the inadequate facilities of the Busby School and recognized the contractural liability to be financially responsible for said facility and its upkeep; and,

WHEREAS, the Northern Cheyenne Tribal Council, the Busby School Board and staff, and all interested parents have worked long and hard to correct the deficiency, yet have been met with inadequate replies and pure neglect and genuine lack of concern by the Bureau of Indian Affairs; and,

WHEREAS, the Individual safety of Indian students is daily threatened by lack of proper maintenance and the total lack of concern for student health and well being is daily manifested by the Bureau of Indian Affairs having personal knowledge of dangerous conditions existing and yet failing, neglecting, and refusing to remedy the situation; and,

WHEREAS, in order to insure a quality education is provided for Indian students at the Busby School, the Northern Cheyenne Tribal Council out of deep respect and fond love for its Indian students, being the next generation of leaders for the Northern Cheyenne Tribe and many other Tribes, makes the following resolutions, to-wit:

NOW, THEREFORE BE IT RESOLVED as follows:

1. That demand is hereby made upon the Bureau of Indian Affairs to immediately make an accounting of the Northern Cheyenne Tribe by

Resolution No. 107(82)
March 22, 1982
Page 2

written response and/or appropriate impartial investigation as to why the Bureau of Indian Affairs has failed to meet its contractural obligations since 1972 in repairing and maintaining the facility and area generally known as the Busby Boarding School, located at Busby, Montana.

2. In the event that the Busby Boarding School is not returned to an adequate state of repair by the Bureau of Indian Affairs, the Northern Cheyenne Tribe, of Lame Deer, Montana, shall hold the Bureau of Indian Affairs directly responsible for any educational delays caused to Indian students because of the inadequate facility.

3. A copy of this Resolution shall be forwarded to the Honorable John Melcher, Senator from Montana, and also the Honorable Ron Marlenee, Representative from Montana.

4. That in the event the Bureau of Indian Affairs does not cure the defects and physical problem of the Busby School facility within thirty (30) days after the date that a special congressional investigation be initiated by the Montana Congressional Delegation to inquire into and discover the reason why the Busby School has been allowed to deteriorate in complete disregard to the contractural obligations of the Bureau of Indian Affairs.

PASSED, ADOPTED AND APPROVED by the Northern Cheyenne Tribal Council by 17 votes for passage and adoption and 0 votes against passage and adoption this 22nd day of March, 1982.

Allen Rowland, President
Northern Cheyenne Tribal Council

ATTEST:

Linda H. [illegible], Secretary
Northern Cheyenne Tribal Council

NORTHERN CHEYENNE BOARD OF HEALTH

P.O. BOX 6
LAME DEER, MONTANA 59043
(406) 477-6284

RESOLUTION NO. 6 (81)

A RESOLUTION OF THE NORTHERN CHEYENNE BOARD OF HEALTH REQUESTING THAT BUREAU OF INDIAN AFFAIRS MAINTENANCE PROGRAM BRING HEALTH AND SAFETY STANDARDS TO AN OPTIMUM LEVEL FOR THE BUSBY SCHOOL.

WHEREAS, Northern Cheyenne Board of Health is charged the responsibility in assuring quality health and welfare of every Northern Cheyenne; and

WHEREAS, Northern Cheyenne Board of Health has become aware of problems in deficiencies concerning Busby School as outlined in Environmental Health Comprehensive Survey in May, 1979; and

WHEREAS, it has also come to the attention of Northern Cheyenne Board of Health that these deficiencies have not been corrected; and

WHEREAS, it is the responsibility of Bureau of Indian Affairs to maintain at an optimum level which insures the safety and well being of every student that attends the Busby School; now

THERFORE BE IT RESOLVED that the Northern Cheyenne Board of Health strongly urges the Bureau of Indian Affairs to check into the Environmental Health Comprehensive Survey of May, 1979 and to take necessary corrective actions to insure the safety and well being of students and personnel of Busby School.

PASSED, ADOPTED AND APPROVED by the Northern Cheyenne Board of Health by (6) votes for passaged and adoption and (no) votes against passage and adoption this (19th) day of November, 1981.

Thomas Rockroads Jr
Tom Rockroads, Jr., Chairman
Northern Cheyenne Board of Health

ATTEST:

Henry Scalpcane
Henry Scalpcane, Secretary
Northern Cheyenne Board of Health

NOTED AND FORWARDED 12/18/81

PRESIDENT, NORTHERN CHEYENNE TRIBE

"PURSUING QUALITY HEALTH FOR THE NORTHERN CHEYENNE PEOPLE."

DEPARTMENT OF HEALTH, EDUCATION AND WELFARE
PUBLIC HEALTH SERVICE
INDIAN HEALTH SERVICE

COMPREHENSIVE ENVIRONMENTAL HEALTH SURVEY

BUSBY TRIBAL SCHOOL
BUSBY, MONTANA

MAY, 1979

BY:
Max B. Gyllenskog, R. S.
District Sanitarian
Billings Area Indian Health Service

BILLINGS AREA INDIAN HEALTH SERVICE
ENVIRONMENTAL HEALTH & ENGINEERING PROGRAMS
ENVIRONMENTAL HEALTH SERVICE
P.O. BOX 2143
BILLINGS, MONTANA 59103

COMPREHENSIVE ENVIRONMENTAL HEALTH SURVEY
BUSBY TRIBAL SCHOOL

MAY 1978

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APPENDIX

Executive Order 11282 "Control of Air Pollution Originating from Federal Installations."
Food Service Report - PHS 4006
Classroom Space Allocations
HSM 377-1 Survey of Community Water Supply System
HSM 377-2 Survey of Community Waste Disposal Facilities

COMPREHENSIVE ENVIRONMENTAL HEALTH SURVEY
BUSBY TRIBAL SCHOOL
BUSBY, MONTANA

MAY 1979

I. INTRODUCTION

A comprehensive environmental health survey was conducted at the Busby Tribal School, Busby, Montana, on May 18, 1979. This survey was conducted in compliance with Indian Health Service Operating Memorandum 56-68, dated March 23, 1956, for the purpose of determining the adequacy of the sanitation facilities at this installation.

The following personnel were contacted during the survey:

Bill Minard - Acting Superintendent
Ron Glenmore - Painter
Rodney Parr - Vocational Agriculture Teacher
Dave Ferraro - Vocational Shop Teacher
Bertha Freeman - Cook Foreman
Steve Cortez - Recreation Director
Peggy Malone - Title I Secretary

The boarding school is located in Big Horn County in the heart of Busby, Montana. At the time of the survey, the enrollment was reported to be 279 students of which 179 were from elementary grades and 100 were high school age.

The school facilities consist of 11 structures of which there are two brick classroom buildings, two brick dormitories, one metal gym, one frame reading lab, two frame maintenance buildings, one frame fire station building, one fram vocational shop, and one frame vocational agriculture building. Numerous quarters are also located on the school campus.

This report includes a description of the unsanitary conditions found at this installation at the time of the survey. Guideline recommendations for the correction of the unsanitary environmental health conditions follow each defect noted.

During the survey, deficiencies relating to environmental health factors were called to the attention of authoritative personnel.

II. SUMMARY

In general, maintenance in all buildings was very poor, many simple r repairs were not being done. Many areas needed painting, ceiling ti replacing and overall maintenance should be upgraded. Additional electrical circuits are needed in several rooms. Lighting is poor in many areas, and numerous safety problems exist.

III. BUILDING AND HOUSING HYGIENE

A. Structural Description

The classroom buildings are in good structural condition as are the gym and reading lab. The dormitories, vocational agriculture and vocational shop buildings are all in poor condition. All other buildings seemed to be in fair condition, although they were not inspected.

Those buildings utilized by the school staff and students were inspected in detail and the defects will be noted under specific headings.

B. Functional Design

The design, arrangement of rooms, facilities, and equipment and the procedures used within the school are all important to the functional effectiveness of the school. Each area of the school was evaluated.

The main school building contains all of the elementary classrooms, the kitchen and cafeteria, administrative offices, nurses office, library, cultural room, etc. The second classroom building contains the high school classrooms and offices. The other buildings are used for only the purpose as named.

The minimum square footage of floor space per person was evaluated in each classroom and dormitory room. The standards used are as follows:

50 sq. ft. in dormitories
40 sq. ft. in Kindergarten through 2nd grade
30 sq. ft. in all other grades

All rooms were found to exceed the minimum standard for space allocation. A chart containing room sizes and current allocations of space per student is included in the appendix of this report.

Defects and Recommendations:

1. It was reported that the wall between the band room and the new math room was not sound proof. Many complaints were made of excessive noise in the rooms and halls adjacent to the band room.

Recommendation: The band room walls should be insulated or sound proofed to prevent excessive noise in adjacent areas.

2. The dormitory buildings are deteriorating and poorly maintained. Doorways have been created by knocking holes in the walls to connect both sides of the buildings. These doorways have exposed brick with no door frame.

Recommendation: The dormitory connecting doorways should be finished and painted to provide easily cleanable surfaces.

3. The storage rooms in the classroom buildings, dormitories and gymnasium are cluttered, dirty, and full of out-dated or unuseable material and equipment.

Recommendation: Unless equipment and supplies are neatly arranged and accessible, a storeroom serves no valuable purpose. The storerooms should be cleaned out, rearranged, and all unnecessary supplies removed and disposed of.

4. The student bathrooms in the elementary building had no hand towels and the electric hand drying blowers were non-functional. Handwashing is discouraged under these conditions.

Recommendation: Some form of hand drying should be provided. Either the dryers should be made operable or disposable towels should be made available or both.

5. One common towel was available for drying hands in the High School boy's bathroom.

Recommendation: Disposable hand towels should be provided for the bathroom.

6. The vocational agriculture building is used as a classroom for a maximum of 10 students. The walls and floor are made of materials which can not be cleaned.

Recommendation: If this building is to continue as a classroom, the floor and walls should be covered with a material of smooth, non-porous qualities which can be easily cleaned.

Plumbing

In general, plumbing throughout the facilities was found to be in good condition. Some effort should be made to correct those deficiencies noted below.

Defects and Recommendations

1. There was no Hot water supplied to the 7th grade room lavatory.

Recommendation: For hand washing purposes, hot water should be supplied to the 7th grade room lavatory.

2. The Science room had a plugged drain in one of the sinks.

Recommendation: This and all drains should be kept free flowing.

3. Nearly all of the lavatory faucet aerators were encrusted with minerals and partially clogged.

Recommendation: Aerators are not effective unless kept free-flowing. All aerators should be periodically removed, cleaned and replaced.

4. Most of the fixtures in the dormitories are very old; many are rusted and deteriorating.

Recommendation: All of the plumbing fixtures in the dormitories should be evaluated and, where necessary, replaced.

5. The fountain in the boys dormitory overflowed due to a clogged drain.

Recommendation: The drain should be cleaned out and maintained.

6. The floor drain in the shop area of the vocational shop building was plugged. This drain is necessary when cleaning large equipment and motors.

Recommendation: The shop floor drain should be unplugged and periodically checked to remain free-flowing.

7. The water in the home economics room was measured to be 160°F. at the lavatories and kitchen sinks.

Recommendation: The water temperatures should not exceed 115°F. to prevent scalding, the temperature should be turned down.

D. Ventilation

Ventilation is provided by natural means to most areas of the buildings. Some window air conditioners are provided in offices, but, by the most part, ventilation is poor in all of the buildings on campus.

Defects and Recommendations:

1. There is no mechanical ventilation in the elementary school bathrooms or janitor's closets.

Recommendation: All "wet" areas such as bathrooms and janitor's closets should be provided with mechanical ventilation capable of providing a minimum of one complete air change each six minutes.

2. The counselor's office has no means of ventilation.

Recommendation: The counselor's office in the elementary building should be provided with mechanical ventilation.

3. The Vocational Shop building has no mechnaical ventilation in the shop area and only a small fan in the paint room. These areas are critical because of the large amounts of dusts and aerosols produced.

Recommendation: A mechanical ventilation system should be designed and installed capable of adequately ventilating these areas.

4. The classrooms rely on natural ventilation to provide air movement, but the incoming air causes a draft on the students sitting near the windows.

Recommendation: At least two windows in each classroom should be provided with wind deflectors. The deflectors should be of transparent or translucent material, approximately 12 inches wide and installed at an angle of approximately 45 degrees.

5. The ventilation in the following areas was found to be very poor:

the boiler room
the nurses office and treatment room
the dark room
the supply rooms
the copy room

Recommendation: All these areas should be provided with mechnaical ventilation.

E. Heating

Heating is supplied from a central heating plant in the basement of the elementary school. High pressure steam is produced from a system of boilers and transferred to the various buildings. The dormitories have a separate hot water heat system. The vocational agricultural and vocational shop buildings have forced air furnaces.

Defects and Recommendations:

1. The heat in the new math room in the elementary building is regulated by turning a fuse in the fuse box.

Recommendation: A thermostatic control system should be installed in the new math room.

2. The thermostats do not function properly in the following rooms;

Science room
Art Room
Kindergarten room
2nd, 3rd, 7th and 8th grade rooms

Recommendation: The thermostats in these rooms should be repaired or replaced.

3. The heating system in the dormitories is very poor. It is usually too hot, so windows are opened during all seasons to regulate the temperature of the rooms.

Recommendation: The heating system should be maintained and regulated to provide a comfortable temperature between 68° and 72° F.

4. It was reported that the heat in the gym cannot be regulated within the building. Windows are opened when it becomes excessively hot.

Recommendation: The heating system in the gym should be thermostatically controlled and regulated by the staff in the gym, to assure proper temperatures for the specific activity in progress.

F. Air Conditioning

Window air conditioning units were in use in some of the office areas. Requests have been made for additional units. No deficiencies were noted.

G. Lighting

The levels of illumination throughout the facility were measured by instrument. Lighting was evaluated on the basis of available, artificial, and natural lighting, use of lighted areas and period of day that the areas were being used.

Defects and Recommendations:

1. Many lighting deficiencies were found in the school. The following chart is a list of these areas and recommended lighting levels:

LOCATION	*MEASURED	*RECOMMENDED
Band Storage Room	2	30
Science	15	30
Kindergarten	20	30
Special Services	20	30
4-5-6 cluster	20	30
Art	20	30
Library	10	30
Cultural Room	10	30
Curriculum Room	20	30
Boiler Room	5	10
Nurses exam room	5	50
Admin. Offices	5	30
Copy Room	0	30
Voc.Ag. Room	20	30

*Illumination in foot candles

Poor lighting can be a result of insufficient fixtures, burned out lights, dark paint, or poor use of the windows (painted or covered).

Recommendation: Lighting in the areas mentioned should be upgraded to the recommended levels by increasing wattage of lights, installing additional light fixtures, using light colored paints, replacing burned out lamps, or simply uncovering the windows.

2. Lights were burned out or missing in the following areas:

    Band Storage room - 4 lights out
    Business room - 1 light out
    Library - 2 lights out
    4-5-6 Cluster - several lights out
    Gym - Many lights out
    Vocational Shop - several lights missing
    Hallways - many lights out

Recommendation: Burned out and missing lights should be replaced promptly.

3. Light covers were found to be missing in classrooms, hallways, offices, and dormitories. There were few lights with covers in the dormitories.

Recommendation: Incandescent lights should be provided covers to prevent glare and accidental breakage. Fluorescent lights should be provided with "egg crate," translucent or opague type shields.

H. Building Maintenance

The responsibility for maintenance of the buildings has gone from BIA to the tribe and back to BIA. This, among other problems, has resulted in very poor maintenance in the recent past.

Defects and Recommendations:

1. The floor tiles near the front of the Science Room were bulged and missing.

Recommendation: To provide a more cleanable surface, the damaged and missing asphalt tiles should be replaced.

2. Several complaints were registered by staff members concerning the need for additional electrical outlets. The Special Services room, the 4-5-6 Cluster room and the Curriculum room all had several extension cords in use with many electrical devices plugged into them.

Recommendation: Additional wiring should be installed in the classroom areas to provide the required outlets.

3. Paint was peeling off the walls in the following areas:

    High School English Room
    Social Studios Room
    Kindergarten Bathroom
    Vocational Shop building
    Elementary boy's bathroom
    Most of the Dormitory rooms

Recommendation: All of the mentioned areas should be repainted.

4. The thresholds and doorways in many of the dormitory rooms were damaged and falling apart.

Recommendation: The damaged thresholds and doorways should be repaired.

5. Many of the dormitory rooms had damaged windows, window sills, and broken glass panes. Most of the window screens were damaged or missing.

Recommendation: The windows, window sills, glass panes, and screens should be repaired or replaced.

6. The doors to the dressing rooms in the gym are damaged, contain holes, and do not fit tightly.

Recommendation: The doors and door frames should be replaced on the dressing rooms in the gym.

7. The carpeting in the 4-5-6 cluster classroom has separated at the seams in several places.

Recommendation: An attempt to rejoin the seams should be made if this is not possible, the carpeting should be replaced.

8. The baseboard is falling off in the men's bathroom in the High School building.

Recommendation: The baseboard should be repaired.

9. The ceiling in the paint room of the vocational shop is sagging.

Recommendation: The ceiling of the paint room should be replaced.

10. The elementary school building has a false ceiling throughout. Two foot by four foot tiles rest in the cross braces. Many of these ceiling tiles are missing and/or damaged.

Recommendation: This type of ceiling panel provides several benefits including insulation from the cold, acoustics, and preventing falling dirt and debris. The panels should be replaced.

11. The roof near the 7-8 grade classroom was reported to be damaged. Evidence of water damage was visible.

Recommendation: The roof leak should be repaired to prevent further damage

IV. WATER SUPPLY

Water was supplied to the school by a BIA and community water supply system. Water was pumped from two deep wells to an elevated standpipe on the north side of the school and an elevated storage tank on the hill on the south side of the highway. A fluoridater was being installed at the time of the survey. The quality and quantity of water has been good. Routine bacteriological analyses are monitored by the Office of Environmental Health monthly. All recent samples have been negative for coliform bacteria.

Defects and Recommendations:

1. Two electric lineshaft turbine pumps were located in adjacent rooms in the maintenance building. Pump number one was not in use; it was reported that a complete overhaul of this pump was needed. Pump number two was in use.

Recommendation: Pump number one should be overhauled or replaced as a back-up pump.

V. SEWAGE

Liquid waste was removed from all buildings by means of a sewer system. The waste water flows to the sewage lagoons on the northeast corner of the campus One lagoon with two cells was in use. No problems were encountered. The survey of community waste disposal facilities is included in the appendix of this report.

VI. FOOD SANITATION

Approximately 560 meals were being served daily by kitchen personnel. All food was found to be from approved sources. Canned foods were received from Continental Kiel, milk from Jersey Creamery in Billings, meat from Sheridan, Meat Market, and other foods locally. Milk is served in the original 1/2 pint containers.

A Public Health Service Inspection Form for Food Establishments, PHS 4006, was completed. Items discussed below refer to the corresponding item numbers on the inspection form in the appendix of this report.

1. Item 2: Many cans delivered by Continental Kiel were found to be severely damaged and dented. Several cans were bulged.

Recommendation: All dented and bulged cans should be removed from the kitchen and returned to the vendor. Dented and bulged cans can be bacteriologically unsafe.

2. Item 8: Meat was uncovered in the thawing portion of the freezer.

Recommendation: All food, while being stored, prepared, displayed, or served should be protected against contamination from any source. Uncovered food can easily become contaminated.

3. Item 9: Milk is removed from refrigeration and put on the serving line prior to serving the meals. The milk remains at room temperatures for long periods of time.

Recommendation: Every effort should be made to keep the milk under refrigeration until served. Small quantities should be removed from the refrigerator and served immediately. The temperature should be 45°F or less.

4. Item 10: There was no thermometer in the milk cooler.

Recommendation: A thermometer accurate to ±2°F should be placed in the warmest part of the refrigerator to monitor the temperatures therein.

5. Item 14: At the time of serving, one food handler was observed serving food with bare hands.

Recommendation: The handling of food should be minimized through the use of suitable utensils or plastic gloves to prevent contamination of food items.

6. Item 29: The food handlers serving the food were not wearing hair restraints, they were handling the food in a sloppy manner, and were putting their hands on dirty surfaces while handling the food.

Recommendation: Food handlers should wear hair restraints and clean outer garments, and should be trained and supervised in handling the food in an appetizing way and a manner so as not to contaminate the food.

7. Item 31: Steel wool was being used in the scraping process in the dishwashing room. Small fragments can remain on the surface of the dishware and get into the food.

Recommendation: An alternate abrasive pad should be used to scrape dishware; steel wool should not be used on food contact surfaces.

8. Item 32: Some utensils contained wood handles with uncleanable cracks and seams.

Recommendation: Food contact surfaces of utensils should be smooth, free of breaks, open seams, cracks, chips and pits, and they should be easily cleanable.

9. Item 44: Silverware was being pre-sorted into containers prior to dishwashing. This can cause surfaces to stick together and prevent thorough washing and sanitizing.

Recommendation: Silverware should be washed without pre-sorting. After washing, the silverware can be carefully sorted or sorted and washed again.

10. Item 45: In the scraping process, prior to dishwashing, a stream of water is sprayed out to wash away remaining food. During the survey the water was spraying out too forcefully and splashing onto the floor and workers.

Recommendation: The spray of water should be turned down to avoid spilling onto the floor.

11. Item 46: The dishwasher had two significant problems. Water sprayed out of the rinsing compartment onto the drying area and flowed with the dishes. This caused the dishes to remain wet after cooling. The final finse temperature was 164°F.

Recommendation: The dishwashing machine should be [illegible] or [illegible] so dishes can properly dry after leaving the final rinse [illegible] the temperature of the final rinse should be increased to 180°F. for proper sanitation of the dishes and utensils.

12. Item 107: The large exhaust hood over the steamers and ovens is not provided with filters to trap grease particles.

Recommendation: Grease filters should be installed in the exhaust hood and should be cleaned weekly.

13. Item 113: A mop was left standing in the corner in the kitchen.

Recommendation: Mops should be rinsed in clean water after use and hung inverted to allow proper drying. Housekeeping equipment should not be left in the food preparation area.

VII. SOLID WASTE

Solid waste was placed in trash containers of all kinds in the various buildings on campus. Most of the solid waste is picked-up and transported to the open dump approximately 1/2 mile from the school. Some of the trash is burned on campus. Three incinerators were located on the campus. One is near the back door of the kitchen and was filled with trash from the kitchen. One is located near the dormitories, and one is located on the west side of the elementary classroom building. These incinerators are large metal containers not properly equipped or maintained.

Defects and Recommendations:

1. These three incinerators showed evidence of recent burning. These incinerators do not meet the air pollution standards set forth in Executive Order 11282.

Recommendation: These incinerators should not be used for burning trash. If burning is required, they should be replaced with a double chamber, gas-fired incinerator which conforms to the standards set forth. A copy of Executive Order 11282 is included in the appendix of this report.

VIII. INSECT AND RODENT CONTROL

Plant management is responsible for control of insects and rodents, but, no activities had taken place as reported by the staff.

Defects and Recommendations:

1. It was reported that cockroaches have been seen in the 3rd grade classroom and possibly in the adjacent classrooms.

Recommendation: A certified pest control operator should be contacted for control of the cockroaches and any other pests.

2. Screens were damaged or missing in several classrooms. If these windows are opened for ventilation, flying insects could enter the buildings.

Recommendation: The damaged and missing screens should be repaired or replaced.

IX. HOUSEKEEPING

Janitors work within Plant Management and are assigned to work in specific areas. Cleaning is done in a very unorganized manner, and few employees are trained in proper procedures of housekeeping.

Defects and Recommendations:

1. The following areas were specifically noted as being very poorly cleaned at the time of the survey:

    All bathrooms on campus
    Janitor's closets
    Supply rooms
    Air conditioners and heaters
    4-5-6 cluster classroom
    Dormitories (especially laundry rooms)
    Vocational Agriculture building

    The floors, walls, windows, and fixtures in these areas were dirty.

Recommendation: General cleaning, dusting, mopping, sweeping, etc., should be improved in these areas.

2. Housekeeping employees are poorly trained in janitorial work and schedules, and procedures are not laid out and followed.

Recommendation: A professional housekeeping advisor should be called upon to assist in setting up schedules, training personnel in proper methods of cleaning, and developing procedures to be followed by the staff.

3. Supplies and equipment for cleaning were laying around in closets, hallways, bathrooms and dormitories. Mops were standing on the floor and sitting in buckets.

Recommendation: Proper storage and use of equipment should be improved. Mops should be hung inverted for proper drying. Training should be provided in proper care and maintenance of equipment.

X. WORK ENVIRONMENT

Laundry

Washing machines and dryers are located in the home economics classroom and in the basement of each dormitory. Cleaning rags, aprons, and personal clothing are washed in these facilities.

Dormitory linens and bedding are laundered by contract with Miles City Laundry. Items are picked up and delivered every Wednesday. No problems were reported.

XI. SAFETY

Numerous safety deficiencies were observed during the survey. No one in the school claims responsibility for a safety program, however, many of the deficiencies which follow are complaints received from the school staff.

Defects and Recommendations

1. Electrical problems or deficiencies noted are as follows:

   a. The girl's dormitory had light switches not attached to a box, they were simply connected to the wires and pushed into holes in the walls.

   b. Extension cords were being used as permanent wiring in the 1st grade room, the darkroom, and the gym. Permanent wiring should be installed.

   c. Overloading of electrical circuits was seen in many classrooms, and the dark room. Multiple cord plugs were in use - especially in the 4-5-6 cluster classroom, the special services room, and the curriculum room.

   d. All of the HIgh School building exit lights were out.

   e. The electrical cables to the following equipment in the vocational shop, are in need of replacement:

      table saw
      lathe
      planer
      jigsaw

   f. A broken outlet and plate in the 4-5-6 cluster classroom should be replaced.

Recommendation: All of the aforementioned electrical defects should be repaired by a qualified electrician.

2. There were no fire extinguishers in the dormitory buildings, the fire extinguisher near the band room had no pressure and none of the extinguishers throughout the facility had a record of having been inspected.

Recommendation: At least two fire extinguishers should be installed on each floor in each of the dormitory buildings. Extinguishers should be visibly checked monthly and inspected and tagged annually.

3. Handrails have been pulled off the wall on the stairways in both dormitory buildings.

Recommendation: The handrails should be installed on the stairways to help prevent falls.

4. There is no fire escape available for the second story of the dormitory buildings.

Recommendation: An external stairway should be constructed on each end of the dormitory buildings to provide an escape route in case of fire.

5. The fire alarm in the main school building was non-functional on the day of the survey.

Recommendation: The fire alarm should be put back into operation and tested at least monthly.

6. The gym has several caged areas in which large mesh screen protects equipment. The corners of the screen are sharp and dangerous and were observed protruding into the walkways where personnel and students walk and run.

Recommendation: The dangerous corners on the screen should be covered, nailed, or in some way protected to prevent injuries to passers-by.

7. Fluorescent light fixtures are hanging from the high ceilings in the gymnasium. The fluorescent tubes are not protected and could fall to the floor if struck by an object.

Recommendation: To prevent possible serious injury, the fluorescent tubes should be enclosed to remove the chance of falling if dislodged.

8. The entrance to the vocational agriculture building is a slab of concrete raised about two inches above the ground, causing a fall hazard.

Recommendation: The concrete slab should be leveled off to ground level to prevent accidental falls.

9. The hot water at the faucets in home economics was measured at 160°F. Accidental scorching of hands in such hot water is possible.

Recommendation: The hot water should be turned down to 115°F. or below.

10. Combustible materials such as oil base paints, thinners, and sealers were stored on open shelves in the paint room and office of the vocational shop.

Recommendation: These and all other combustibles should be stored in fire proof cabinets to prevent fire or explosion.

11. The first aid kit in the shop was almost empty.

Recommendation: The first aid kit should be replenished with first aid supplies.

12. No guards are provided on the power equipment in the wood shop.

Recommendation: Protective guards should be installed on all power equipment and used by students and staff.

13. Eye protection is not worn when using power equipment in the shop area. The students were observed working in the area without eye protection.

Recommendation: To prevent possible eye injuries the students and teachers should be provided with safety goggles and not allowed to work in the area without them.

XI. CONCLUSION

The recommendations made in this report are for the purpose of indentifying existing environmental problems. If the recommendations are followed, it is believed the students and staff will greatly benefit.

PREPARED BY:

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June 28, 1979
Date

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Billings Area Office

3 July 1979
Date

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July 5, 1979
Date

Control of Air Pollution Originating From Federal Installations

Announcement of Signing of Executive Order 11282. May 26, 1966

President Johnson today signed an Executive order requiring all Federal agencies to take steps to prevent and control air pollution from Federal installations.

The order directs the heads of all Federal agencies to lead in the administration's efforts to improve the quality of the Nation's air. Today's order is similar to one the President issued last November directing the Federal Government to provide effective leadership in the battle against water pollution.

The air pollution Executive order is the result of extensive consultation with Federal agencies and with industries affected by the order. The Department of Health, Education, and Welfare is issuing standards to supplement the order, by setting precise limitations on emissions which will be allowed from Federal buildings and facilities.

Today's order requires that plans for new Federal facilities and buildings in the United States include provisions for air pollution control measures necessary to comply with the standards issued by the Department of Health, Education, and Welfare. In addition, the order directs the head of each agency to examine existing installations and to present to the Bureau of the Budget, by July 1, 1967, an orderly schedule for bringing all such installations up to the required standards.

In signing the order, the President stated that the most difficult problem encountered in writing the order was the lack of an economically feasible technology for controlling emissions of sulfur. The Federal Government has proposed spending more than $5 million in 1967 on research to control sulfur emissions. This includes $1 million for designing four sulfur-removal pilot plants, the construction of which plants would cost a total of $8 million. The President has directed the Secretaries of the Interior and Health, Education, and Welfare to explore with the Bureau of the Budget the feasibility of increasing the Federal effort to find a solution to the sulfur emission problem.

The President said that a major part of the responsibility for sulfur research lies with the utilities, the coal and oil industries, and other groups which will feel the economic effects of more stringent air pollution regulations. He pointed out that these industries had increased their expenditures for air pollution research in the past few years, but stated that much greater efforts are needed.

The President emphasized that, although there were great technological and economic problems in the abatement of air pollution, the battle for cleaner air remained a major objective of his administration, and an essential element in a better environment for America.

NOTE: For the text of Executive Order 11282, see the following item.

Control of Air Pollution Originating From Federal Installations

Executive Order 11282. May 26, 1966

PREVENTION, CONTROL, AND ABATEMENT OF AIR POLLUTION BY FEDERAL ACTIVITIES

By virtue of the authority vested in me as President of the United States and in furtherance of the purpose and policy of the Clean Air Act, as amended (42 U.S.C. 1857), it is ordered as follows:

SECTION 1. *Policy.* The heads of the departments, agencies, and establishments of the Executive Branch of the Government shall provide leadership in the nationwide effort to improve the quality of our air through the prevention, control, and abatement of air pollution from Federal Government activities in the United States. In order to achieve these objectives—

(1) Emissions to the atmosphere from Federal facilities and buildings shall not be permitted if such emissions endanger health or welfare, and emissions which are likely to be injurious or hazardous to people, animals, vegetation, or property shall be minimized. The procedures established in section 3 of this Order shall be followed in minimizing pollution from existing facilities and buildings.

(2) New Federal facilities and buildings shall be constructed so as to meet the objectives prescribed by this Order and the standards established pursuant to section 5 of this Order.

(3) The Secretary of Health, Education, and Welfare shall, in administering the Clean Air Act, as amended, provide technical advice and assistance to the heads of other departments, agencies, and establishments in connection with their duties and responsibilities under this Order. The head of each department, agency, and establishment shall establish appropriate procedures for securing advice from, and consulting with, the Secretary of Health, Education, and Welfare.

(4) The head of each department, agency, and establishment shall ensure compliance with section 107(a) of the Clean Air Act, as amended (42 U.S.C. 1857f(a)), which declares it to be the intent of Congress that Federal departments and agencies shall, to the extent practicable and consistent with the interests of the United States and within available appropriations, cooperate with the Department of Health, Education, and Welfare and with any air pollution control agency in preventing and controlling pollution of the air.

SEC. 2. *Procedures for new Federal facilities and buildings.* A request for funds to defray the cost of designing and constructing new facilities and buildings in the United States shall be included in the annual budget estimates of a department, agency, or establishment only if such request includes funds to defray the costs of such measures as may be necessary to assure that the new facility or building will meet the objectives prescribed by this

Order and the standards established pursuant to section 5 of this Order. Air pollution control needs shall be considered in the initial stages of planning for each new installation.

SEC. 3. *Procedures for existing Federal facilities and buildings.* (a) In order to facilitate budgeting for corrective and preventive measures, the head of each department, agency, and establishment shall provide for an examination of all existing facilities and buildings under his jurisdiction in the United States and shall develop and present to the Director of the Bureau of the Budget, by July 1, 1967, a phased and orderly plan for installing such improvements as may be needed to prevent air pollution, or abate such air pollution as may exist, with respect to such buildings and facilities. Subsequent revisions needed to keep any such plan up to date shall be submitted to the Director of the Bureau of the Budget with the annual report required by paragraph (b) of this section. Future construction work at each such facility and the expected future use of the facility shall be considered in developing such a plan. Each such plan, and any revision therein, shall be developed in consultation with the Secretary of Health, Education, and Welfare in order to ensure that adoption of the measures proposed thereby will result in the prevention or abatement of air pollution in conformity with the objectives prescribed by this Order and the standards prescribed pursuant to section 5 of this Order.

(b) The head of each department, agency, and establishment who has existing facilities and buildings under his jurisdiction in the United States shall present to the Director of the Bureau of the Budget, by July 1, 1968, and by the first of each fiscal year thereafter, an annual report describing progress of his department, agency, or establishment in accomplishing the objectives of its air pollution abatement plan.

SEC. 4. *Objectives for Federal facilities and buildings.* (a) Except for discharges of radioactive emissions which are regulated by the Atomic Energy Commission, Federal facilities and buildings shall conform to the air pollution standards prescribed by the State or community in which they are located. If State or local standards are not prescribed for a particular location, or if the State or local standards are less stringent than the standards established pursuant to this Order, the standards prescribed pursuant to section 5 of this Order shall be followed.

(b) The emission of flyash and other particulate matter shall be kept to a minimum.

(c) Emission of sulfur oxides shall be minimized to the extent practicable.

(d) Wherever appropriate, tall chimneys shall be installed in order to reduce the adverse effects of pollution. The determination of chimney height shall be based on air quality criteria, land use, and meteorological, topographical, aesthetic, and operating factors.

(e) Solid fuels and ash shall be stored and handled so as not to release to the atmosphere dust in significant quantities. Gasoline or any volatile petroleum distillate or organic liquid shall be stored and handled so as not to release to the atmosphere vapor emissions in significant quantities.

(f) In urban areas refuse shall not be burned in open fires and in rural areas it shall be disposed of in such a manner as to reasonably minimize pollution. Refuse shall not be left in dumps without being covered with inert matter within a reasonably short time. Whenever incinerators are used they shall be of such design as will minimize emission of pollutant dusts, fumes, or gases.

(g) Pollutant dusts, fumes, or gases (other than those for which provision is made above) shall not be discharged to the atmosphere in quantities which will endanger health or welfare.

(h) The head of each department, agency, and establishment shall, with respect to each installation in the United States under his jurisdiction, take, or cause to be taken, such action as may be necessary to ensure that discharges of radioactive emissions to the atmosphere are in accord with the rules, regulations, or requirements of the Atomic Energy Commission and the policies and guidance of the Federal Radiation Council as published in the Federal Register.

(i) In extraordinary cases where it may be required in the public interest, the Secretary of Health, Education, and Welfare may exempt any Federal facility or building from the objectives of paragraphs (a) through (g) of this section.

SEC. 5. *Standards.* (a) The Secretary of Health, Education, and Welfare shall prescribe standards to implement the objectives prescribed by paragraphs (a) through (g) of section 4 of this Order. Such standards may modify these objectives whenever the Secretary of Health, Education, and Welfare shall determine that such modifications are necessary in the public interest and will not significantly conflict with the intent of this Order. Prior to issuing any changes in such standards, the Secretary of Health, Education, and Welfare shall consult with appropriate Federal agencies and shall publish the proposed changes in the Federal Register thirty days prior to their issuance. All such standards prescribed by the Secretary shall be published in the Federal Register.

(b) The permits authorized by section 107(b) of the Clean Air Act, as amended (42 U.S.C. 1857f(b)), may be used to carry out the purposes of this Order as the Secretary of Health, Education, and Welfare may deem appropriate.

SEC. 6. *Prior Executive Order superseded.* Executive Order No. 10779 of August 20, 1958, is hereby superseded.

LYNDON B. JOHNSON

The White House
May 26, 1966.

[Filed with the Office of the Federal Register, 8:49 a.m., May 27, 1965]

INSPECTION REPORT
FOOD SERVICE ESTABLISHMENTS

Permit No. ______
Type ______

CITY, COUNTY OR DISTRICT	NAME OF ESTABLISHMENT	ADDRESS	OWNER OR OPERATOR
Big Horn	Busby Tribal School	Busby, Mt.	N.Cheyenne Trib.

Sir: Based on an inspection this day, the items marked below identify the violation in operation or facilities which must be corrected by the next routine inspection or such shorter period of time as may be specified in writing by the health authority. Failure to comply with this notice may result in immediate suspension of your permit (or downgrading of the establishment).* An opportunity for an appeal will be provided if a written request for a hearing is filed with the health authority within the period of time established in this notice for the correction of violations.

SECTION B. FOOD

Item	1. FOOD SUPPLIES	Specify: CAN' GOODS	Bakery products	Poultry and poultry products	Meat and meat products	Frozen desserts	Shellfish	Milk and milk products	Demerit points
1	Approved source								6
2	Wholesome - not adulterated	X							6
3	Not misbranded								2
4	Original container; properly identified								2
5	Approved dispenser								
6	Fluid milk and fluid milk products pasteurized								6
7	Low-acid and non-acid foods commercially canned								6

Item	2. FOOD PROTECTION	Preparation	Storage	Display	Service	Transportation	Demerit points
8	Protected from contamination		X	X			4
9	Adequate facilities for maintaining food at hot or cold temperatures				X		2
10	Suitable thermometers properly located		X				2
11	Perishable food at proper temperature						2
12	Potentially hazardous food at 45° F. or below, or 140° F. or above as required						6
13	Frozen food kept frozen; properly thawed						2
14	Handling of food minimized by use of suitable utensils				X		4
15	Hollandaise sauce of fresh ingredients; discarded after three hours						6
16	Food cooked to proper temperature						6
17	Fruits and vegetables washed thoroughly						2
18	Containers of food stored off floor on clean surfaces						2
19	No wet storage of packaged food						2
20	Display cases, counter protector devices or cabinets of approved type						2
21	Frozen dessert dippers properly stored						2
22	Sugar in closed dispensers or individual packages						2
23	Unwrapped and potentially hazardous food not re-served						4
24	Poisonous and toxic materials properly identified, colored, stored and used; poisonous polishes not present						6
25	Bactericides, cleaning and other compounds properly stored and non-toxic in use dilutions						

SECTION C. PERSONNEL
1. HEALTH AND DISEASE CONTROL

Item			Demerit points
26	Persons with boils, infected wounds, respiratory infections or other communicable disease properly restricted		6
27	Known or suspected communicable disease cases reported to health authority		6

2. CLEANLINESS

Item			Demerit points
28	Hands washed and clean		6
29	Clean outer garments, proper hair restraints used	X	2
30	Good hygienic practices		4

SECTION D. FOOD EQUIPMENT AND UTENSILS

Item	1. SANITARY DESIGN, CONSTRUCTION AND INSTALLATION OF EQUIPMENT AND UTENSILS	Good repair; no cracks	No chips, pits or open seams	Cleanable; smooth	Approved material	No corrosion	Proper construction	Accessible for cleaning and inspection	Demerit points
31	Food-contact surfaces of equipment X								2
32	Utensils	X							2
33	Non-food-contact surfaces of equipment								2
34	Single-service articles of non-toxic materials								2
35	Equipment properly installed								2
36	Existing equipment capable of being cleaned, non-toxic, properly installed, and in good repair								2

Item	2. CLEANLINESS OF EQUIPMENT AND UTENSILS		Demerit points
37	Tableware clean to sight and touch		4
38	Kitchenware and food-contact surfaces of equipment clean to sight and touch		
39	Grills and similar cooking devices cleaned daily		
40	Non-food-contact surfaces of equipment kept clean		2
41	Detergents and abrasives rinsed off food-contact surfaces		2
42	Clean wiping cloths used; use properly restricted		2
43	Utensils and equipment pre-flushed, scraped or soaked	X	2
44	Tableware sanitized	X	4
45	Kitchenware and food-contact surfaces of equipment used for potentially hazardous food sanitized		
46	Facilities for washing and sanitizing equipment and utensils approved, adequate, properly constructed, maintained and operated	X	4
47	Wash and sanitizing water clean		2
48	Wash water at proper temperature		
49	Dish tables and drain boards provided, properly located and constructed		2
50	Adequate and suitable detergents used		2
51	Approved thermometers provided and used		
52	Suitable dish baskets provided		2
53	Proper gauge cocks provided		
54	Cleaned and cleaned and sanitized utensils and equipment properly stored and handled; utensils air-dried		2
55	Suitable facilities and areas provided for storing utensils and equipment		2
56	Single-service articles properly stored, dispensed and handled		2
57	Single-service articles used only once		6
58	Single-service articles used when approved washing and sanitizing facilities are not provided		

SECTION E. SANITARY FACILITIES AND CONTROLS
1. WATER SUPPLY

Item		Demerit points
59	From approved source; adequate; safe quality	6
60	Hot and cold running water provided	4
61	Transported water handled; stored; dispensed in a sanitary manner	
62	Ice from approved source, made from potable water	
63	Ice machines and facilities properly located, installed and operated	
64	Ice and ice handling utensils properly handled and stored, block ice rinsed	
65	Ice-contact surfaces approved; proper material and construction	

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* Applicable only where grading form of ordinance is in effect.

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Item	2. SEWAGE DISPOSAL	Demerit Points
66	Into public sewer, or approved private facilities	6
	3. PLUMBING	
67	Properly sized, installed and maintained	2
68	Non-potable water piping identified	1
69	No cross connections	6
70	No back siphonage possible	
71	Equipment properly drained	2
	4. TOILET FACILITIES	
72	Adequate, conveniently located, and accessible; properly designed and installed	6
73	Toilet rooms completely enclosed, and equipped with self-closing, tight-fitting doors; doors kept closed	2
74	Toilet rooms, fixtures and vestibules kept clean, in good repair, and free from odors	2
75	Toilet tissue and proper waste receptacles provided; waste receptacles emptied as necessary	2
	5. HAND-WASHING FACILITIES	
	Lavatories provided, adequate, properly located and installed	6
	Provided with hot and cold or tempered running water through proper fixtures	4
	Suitable hand cleanser and sanitary towels or approved hand-drying devices provided	2
	Waste receptacles provided for disposable towels	2
	Lavatory facilities clean and in good repair	2
	6. GARBAGE AND RUBBISH DISPOSAL	
	Stored in approved containers; adequate in number	2
	[illegible] cleaned when empty; brushes provided	2
	When not in continuous use, covered with tight fitting lids, or in protective storage inaccessible to vermin	2
	[illegible] areas adequate; clean; no nuisances; proper facilities provided	2
	Disposed of in an approved manner, at an approved frequency	2
	[illegible] rooms or enclosures properly constructed; outside storage at [illegible] height above ground or on concrete slab	2
	[illegible] waste grinders and incinerators properly installed, constructed and operated; incinerators areas clean	2
	7. VERMIN CONTROL	
	[illegible] rats, [illegible], flies, roaches and vermin minimized	4
	[illegible] protected against flying insects as required; [illegible]	2
	Harborage and feeding of vermin prevented	2

Item	SECTION F. OTHER FACILITIES 1. FLOORS, WALLS AND CEILINGS	Demerit Points
91	Floors kept clean; no sawdust used	2
92	Floors easily cleanable construction, in good repair, smooth, non-absorbent; carpeting in good repair	1
93	Floor graded and floor drains, as required	2
94	Exterior walking and driving surfaces clean; drained	2
95	Exterior walking and driving surfaces properly surfaced	1
96	Mats and duck boards cleanable, removable and clean	2
97	Floors and wall junctures properly constructed	2
98	Walls, ceilings and attached equipment clean	2
99	Walls and ceilings properly constructed and in good repair; coverings properly attached	1
100	Walls of light color; washable to level of splash	2
	2. LIGHTING	
101	20 foot-candles of light on working surfaces	2
102	10 foot-candles of light on food equipment, utensil-washing, hand-washing areas and toilet rooms	
103	5 foot-candles of light 30" from floor in all other areas	
104	Artificial light sources as required	2
	3. VENTILATION	
105	Rooms reasonably free from steam, condensation, smoke, etc.	2
106	Rooms and equipment vented to outside as required	2
107	Hoods properly designed, filters removable X	2
108	Intake air ducts properly designed and maintained	1
109	Systems comply with fire prevention requirements; no nuisance created	2
	4. DRESSING ROOMS AND LOCKERS	
110	Dressing rooms or areas as required; properly located	1
111	Adequate lockers or other suitable facilities	1
112	Dressing rooms, areas and lockers kept clean	2
	5. HOUSEKEEPING	
113	Establishment and property clean, and free of litter X	2
114	No operations in living or sleeping quarters	2
115	Floors and walls cleaned after closing or between meals by dustless methods	2
116	Laundered clothes and napkins stored in clean place	2
117	Soiled linen and clothing stored in proper containers	1
118	No live birds or animals other than guide dogs	2

DEMERIT SCORE OF THE ESTABLISHMENT ______

REMARKS: ______________________________

Date ______________ Health Authority ______________

CLASSROOM SPACE ALLOCATION

CLASSROOM	SIZE	# STUDENTS	SQ.FT. PER STUDENT
Band Room	30 x 60	24	75
Math	25 x 30	12	62.5
Home Economics	30 x 40	7	170
Science	30 x 45	20	67.5
Kindergarten	30 x 60	14	129
1st	30 x 60	15	120
Special Services	30 x 45	few	--
2nd	30 x 60	15	120
3rd	30 x 45	22	61
4-5-6	30 x 45	20	67.5
4-5-6 #2	30 x 120	63	57
Art	30 x 45	27	50
7th	30 x 45	22	61
8th	30 x 45	30	45
Library	30 x 60	--	--
Cultural Room	30 x 35	12	87.5
HS English	25 x 35	24	36.5
Business	25 x 35	11	80
English	25 x 35	15	58
Reading	25 x 35	12	73
Social Studies	25 x 35	15	58
Math	18 x 27	7	69
Voc. Ag.	19' x 19'	10	38

v. 12-70

SURVEY OF COMMUNITY WATER SUPPLY SYSTEM

TYPE OF SURVEY [illegible]
☐ FOLLOW-UP ☒ ANNUAL
☐ REVISIT ☐ OTHER
DATE May 17, 1979

PROJECT NUMBER/OTHER IDENTIFICATION

DATE SYSTEM CONSTRUCTED

OWNERSHIP BIA/Tribe

VEYOR lax Gyllenskog, R. S.

COMMUNITY Busby

RESERVATION Northern Cheyenne

ITEM	EXISTING	DEFECTS*	ITEM	EXISTING	DEFECTS*	ITEM	EXISTING
A. SOURCE			C. PUMP HOUSE			E. DISTRIBUTION SYSTEM	
			1. STRUCTURE	X		1. LOCATION MARKERS	
OMPOUND			2. HEATING	X		2. VALVE BOXES	X
ELL	X		3. ELECTRICITY	X		3. VALVES	X
SPRING			4. RECORDS		X	F. OPERATION	
NFIL. GALLERY			5. HOUSEKEEPING	X	X	1. WATER COMMISSION ESTAB.	X*
THER			6. TOOL INVENTORY	X		2. SCHEDULE	
B. PUMPS & MOTORS			7. PIPING	X		3. RECORDS	X
LECTRIC PUMP Lineshaft turbine	X	X	8. AUTO. CONTROLS	X		4. SAMPLES AND TESTS	X
			9. TREATMENT	X		G. OPERATOR	
HAND PUMP			D. STORAGE FACILITY				
ACK			1. COMPOUND	X		1. ASSIGNED	X
ASOLINE ENGINE			2. SLAB	X		2. TRAINED	X
LECTRIC MOTOR			3. STORAGE TANK	X			

COMMENTS

The system consists of two wells - one well was not in use. The well in use is located in the maintenance building at the Busby School. This well has two pumps - one was not being used. Two storage tanks were in use. A fluoridator was being installed.

DEFECTS	RECOMMENDATIONS
1. One pump was not functional	The pump should be overhauled and used as a back-up pump.
No records were available	A record keeping system should be initiated. O&M procedures should be recorded. Water and chemical usage should be recorded with date.
Water on the floor in the pump house, also in need of cleaning.	The room should be kept clean - a routine schedule should be established.
Valves not located.	Locate valves and mark with visible markers.
Some valve boxes filled with dirt - others cannot be located.	Locate and clean out valve boxes.

*LIST ALL DEFECTS IN COMMENTS BELOW. USE CONTINUATION [illegible] IF NECESSARY. [illegible] (Continue comments on reverse [illegible])

SM-377-2
EV. 12-70

SURVEY OF
COMMUNITY WASTE DISPOSAL FACILITIES

TYPE OF SURVEY (Check one)
☐ FOLLOW-UP ☒ ANNUAL
☐ REVISIT ☐ OTHER
DATE May 17, 1979

PROJECT NUMBER/SITE IDENTIFICATION
DATE SYSTEM CONSTRUCTED -
OWNERSHIP No. Cheyenne Utility Commission

RVEYOR Max Gyllenskog, R. S.
COMMUNITY Busby
RESERVATION Northern Cheyenne

ITEM	EXISTING	DEFECTS*	ITEM	EXISTING	DEFECTS*	ITEM	EXISTING
A. SEPTIC TANK SYSTEM			5. LIQUID COLOR, ODOR	X		E. SANITARY LANDFILL	
			6. WEED GROWTH	X	X		
GROUND SURFACE			7. DIKES	X		ACCESS ROAD	
			8. DIVERSION STRUCT.			1. PASSABLE	X
SURFACING SEWAGE			9. OVERFLOW DRAINAGE			2. SIGNS	
LOCAL PLANT GROWTH			10. CHLORINATION CHAMBER			3. DUMPING	X
SURFACE DRAINAGE			11. CHLORINATION OPER.			SITE	
DISTRIBUTION BOX			C. SEWERS			4. SIGNS	
DEBRIS ACCUMULATION						5. FENCE	
INSPECTION HOLES			MANHOLES AND LINES			6. PAPER SCATTER	
IDENTIFIED, CONDITION			1. COVERS	X		7. SURFACE DRAINAGE	
INLET-OUTLET BLOCKAGE			2. SURFACE EROSION	X		8. EQUIPMENT CONDITION	
MAINTENANCE			3. DEBRIS ACCUM.	X	X	9. INSECTS & RODENTS	
SLUDGE-SCUM ACCUM.			4. LINE FLUSHING	X	X	10. DOGS	
PUMPING SERVICE			D. LIFT STATION			OPERATION	
AS-BUILT PLAN						11. TRENCHING	X
B. WASTE STABILIZATION POND			1. VENTILATION			12. DUMPING, COMPACTION	X
			2. FENCE			13. BURNING	X
ACCESS ROAD	X		3. PUMPS			14. SCAVENGING	X
FENCE	X		4. GENERAL OPERATION			OPERATOR	
WARNING SIGNS	X		5. RECORDS			15. ASSIGNED	
LIQUID LEVEL	X		6. OPERATOR RESPONSIBLE			16. TRAINED	

COMMENTS The lagoon is located on the northeast corner of the Busby School. A sewer system rves the community and is maintained by both the Bureau of Indian Affairs and the rthern Cheyenne Utility Commission.

DEFECTS	RECOMMENDATIONS
6. The lagoon is surrounded by heavy weed growth	Vegetation growth should be controlled by a regular cutting schedule to eliminate sible cell seepage, discourage rodent burrowing, mosquito breeding and facilit natural biological treatment of wastewat
3. Debris deposits were collecting in the manholes	Sewer mains should be flushed on a routi schedule - at least each 6 months.
[illegible] records were kept of line [illegible]	When sewer mains are flushed, [illegible] be recorded.

[illegible]

JUN 03 1980

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE
PUBLIC HEALTH SERVICE
Health Services Administration

JUN 2 1980

BILLINGS AREA
INDIAN HEALTH SERVICE
2727 Central
P. O. Box 2143
Billings, Montana 59103

Our Reference: EHS

Dr. Asad Ali Khan
School Superintendent
Busby Indian Boarding School
Busby, Montana 59016

Dear Dr. Ali Khan:

In response to your request of May 5, 1980, through the Service Unit Director an inspection was performed by this office on 5/15/80 of the high school and gymnasium facilities.

The inspection, or survey, which was performed dealt with environmental and safety conditions. A comprehensive environmental health survey was not performed. A copy of the inspection request is attached.

During the inspection of those two buildings, many deficiencies were found. The following list of deficiencies and recommendations have been separated for both buildings:

1. High School Building

A. Girls' Locker Room

1. There were no covered waste receptacles. It is recommended that at least one cover waste receptacle be placed in the toilet area for the proper disposal of sanitary napkins.
2. The wall mounted benches in the shower room/dry off area were pulled loose from the wall. These benches should be properly secured to the wall and floor to prevent possible injuries.
3. Water leaks from the shower area under the wall, into the dry off area causing an additional slipping hazard as well as structural damage. The wall-floor junction, separating the shower room from the dry off area, should be provided with a water tight coving-seal to prevent water leakaged. This will assist in reducing the safety hazard, prevent further structural deterioration, and aid in housekeeping.
4. The coving, designed to help seal the wall/floor junction, was loose and falling off the walls. The coving should be properly sealed to the wall and floor to aid in housekeeping as well as to eliminate growth areas for bacteria and fungus.
5. There was a great deal of mineral deposit build up on the shower heads. These areas should be cleaned daily to insure the proper operation of the showers.

6. There were two lights burned out in the shower room area. These should be replaced. Also, one of the lights did not have a protective cover. A shatter proof protective cover-globe should be installed to prevent possible injuries from broken light bulb glass.
7. There was structural damage to the ceiling around the SE light fixture in the shower room. This ceiling area should be repaired and sealed to eliminate further deterioration due to condensation.
8. The coving in the coaches office was loose. This should be properly secured to aid in housekeeping.
9. A number of the floor tiles in the dressing room were cracked and/or broken. These should be replaced so that this area can be properly cleaned.
10. Coving was missing and loose in the dressing area. Again, the wall/floor should be properly sealed to aid in housekeeping, to reduce structural damage due to water seepage, and to eliminate growth areas for bacteria.
11. The toilet/stall areas were very dirty. These areas should be cleaned thoroughly on a daily basis with a germicidal solution.
12. There was no ventilation provided for the locker room. It is recommended that a mechanical air exchange system be installed of such size and design to provide ventilation at the minimum rate of one complete air change each six minutes.
13. The metal partition separating the toilets was loose and pulled away from the wall on the south end of the stool area. This should be secured or removed to prevent possible injuries.
14. One of the four stools was non-operational. This water closet should be unplugged or repaired to function as designed.
15. The large mirror, approximately 2 feet by 4 feet, was broken with a large piece missing from the center. This should be removed and disposed of as it could cause a serious cutting injury.
16. There was a hole in the wall from the door knob, between the dressing and bathroom area. This should be repaired and a base board attached door stop should be mounted to prevent further damage.
17. The metal molding around the door vent was loose with sharp edges protruding outward. The molding should either be securely attached or removed to prevent possible injuries.
18. One of the two rows of fluorescent light fixtures in the dressing room was not shielded. The protective covers should be replaced to help prevent breakage as well as possible injuries.

B. Boys' Locker Room

1. The door going into the boys' locker room had no door knob or handle; the metal molding around the door vent has sharp edges sticking out; and the door was soiled. These items should be repaired, replaced, or removed to prevent possible injuries when entering or leaving this area. This area should also be thoroughly cleaned.
2. The faucet controls on both sinks were missing. These should be repaired so that the sinks can be used.
3. The coving throughout this area was either missing or loose. All floor/wall junctions should be properly sealed to prevent structural deterioration and to aid in housekeeping.

4. The entire boy's locker area was grossly soiled. This area should be thoroughly cleaned at the end of every use day with a germicidal solution.
5. There was severe structural damage to the walls in the bathroom area. The walls should be repaired and properly covered/sealed so that they are smooth, impervious and easily cleanable. Also, the existing 3/4 inch plywood that was covering up structural damage should be painted so that it is smooth and easily cleanable.
6. Of the two rows of fluorescent light fixtures, in the bathroom area, one row does not have protective covers. The existing covers on the second row were hanging down producing a hazard to anyone standing under them. The covers should be replaced, repaired, and properly attached to help prevent bulb breakage and to eliminate existing safety hazards.
7. There was no ventilation provided in the locker room. It is recommended that a mechanical air exchange system be installed of such size and design to provide ventilation at the minimum rate of one complete air change each six minutes.
8. The heat vents on the walls were very soiled. These should be removed and cleaned.
9. The trap under one of the sinks was leaking. The plumbing should be repaired to aid in housekeeping, to minimize odors and to help eliminate slippery conditions.
10. Cover plates over the electrical outlets were either damaged or missing. These should be replaced to prevent possible electrical problems as well as hazards.
11. The boys shower entrance door was in the same condition as listed under no. 1 of this section. The revommendations all the same.
12. The wall mounted benches in the dry off area were loose and pulling away from the walls. These should be properly fastened to the wall for prevention of injuries and further structural damage.
13. Of the eight lights in the shower room/dry off area, five did not work and one cover was missing. These lights should be replaced for proper illumination and the protective globe should be replaced to prevent breakage or possible explosion due to condensation. Only two foot candles of light was measured in the dry off area. The required minimum is ten foot candles of light.
14. The shower room floor is concrete and can not be properly cleaned in its present state. This area should be sealed so that it is easily cleanable.
15. The formica, which covers the walls in the shower room, was buckled and loose. This covering should be properly fastened to the wall to prevent further structural damage resulting from condensation and to eliminate areas for bacterial growth.
16. The piece of sheet rock on the ceiling of the shower room can not be cleaned. This area should be properly sealed so that it is smooth and easily cleanable.
17. There were excessive amounts of mineral deposits on the shower heads. These should be cleaned daily to insure proper operation of the showers.
18. The wall separating the shower room from the dry off area was cracked at the ceiling junction. This area should be repaired and sealed so that it is smooth, easily cleanable and to prevent further structural deterioration.
19. There were only two tiles left in the suspended ceiling of the dressing room area. These should be removed.
20. The walls and ceiling of the dressing room have been severly damaged. There were nails sticking out of the walls where they have been ripped apart; boards with nails in them were laying on the floor; nails were sticking out of the bench. There were excessive amounts of debris on the floor.

One fluorescent tube had been broken and was hanging from the fixture. It is recommended that this area be closed and no longer used until it can be repaired.

C. School Auditorium

1. Ten of the fifteen fluorescent lights were not operational and three protective covers were missing. These light tubes should be replaced to provide 10 foot candles of illumination. Five foot candles of light was measured at the time of inspection. The covers should also be replaced to help prevent breakage.
2. The floor area and the window sill areas were very dirty. These areas should be cleaned on a routine basis.
3. The exit door on the south side of the auditorium did not seal properly. Weatherstripping is recommended to aid in housekeeping, to prevent heat loss and to eliminate entrances for insects and rodents.
4. Four broken windows were noted above the south exit. These should be replaced to prevent possible injuries, heat loss and entrances for insects.
5. There was structural damage to the wall areas on the stage. These areas should be repaired to prevent further deterioration and possible injuries.
6. The fire hose box glass located on the north end of the stage was broken and the hose was not properly stored. The hose should be properly hung and the door glass should be replaced.

D. Hallway and Entrances

1 The southwest entrance, next to the auditorium, was not properly sealed. Weatherstripping is recommended to help prevent heat loss to aid housekeeping and to eliminate entrances for insects and rodents. Also, the porch light should have a protective cover to help minimize light bulb breakage and to minimize possible injuries.

2. The fire hose and extinguisher box located on the south end of the hallway was locked. Also, the fire hose was not properly stored. The fire extinguisher was inspected June of 1979. The fire box should not be locked as it would create another safety hazard if the contents were needed for an emergency. The door glass should not be standard plate glass. The fire hose should be hung on the hooks, and the fire extinguisher should be visually inspected every month. Annual maintenance of the extinguisher should be made and the date should be recorded on attached card.
3. Many of the tile squares in the hallway broken. These should be replaced so that the floor area is smooth and easily cleanable.
4. The electrical panel door in the hallway cannot be kept closed. The broken handle should be replaced so that door on panel stays closed.
5. The floor mounted electrical outlet for the drinking fountain was loose and is a potential electrical hazard. It is recommended that the outlet be extended upward to a height of approximately fifteen inches above the floor and securely fastened to the wall. All wiring should be enclosed in conduit.
6. There was no panic hardware on the northwest door at the north entrance. This hardware should be replaced to facilitate proper door operation and ease of opening in case of an emergency.
7. The hinges were broken on the wooden door at the north entrance. These doors serve no purpose and should be removed. They present a safety hazard in the present state. The glass window was also broken in this door.

8. The fire hose was not properly stored in the box next to the boys' bathroom. The door glass had been broken and the fire extinguisher had been removed. The hose should be properly folded and hung. Also, the fire hoses should be inspected at least yearly for deterioration. It is questionable as to whether or not they would function properly in their present state. The fire extinguisher should be recharged and put back in its designated location.

E. Boys' Bathroom

1. The door was propped open and not capable of self closing. This door should be equipped with a self closing device and kept closed to help eliminate odors within the building.
2. The existing ventilation system was not operational. The fan should be repaired and put into operation to remove odors.
3. The large mirror, approximately three feet by five feet was loosely hanging from the wall. This mirror should be securely fastened as it is a potential hazard.
4. There was no soap in the bathroom. Soap should be provided to facilitate proper hand washing. Supplies should be checked daily and replenished as necessary.
5. The partitions separating the stool were loose. These should be properly secured to the wall and floor.
6. Ceramic tiles were missing from the floor. These areas should be repaired so that the floor area can be properly cleaned.
7. The formica which lines the walls was loose and holes were observed. The formica should be sealed to the walls and the holes repaired so that these surfaces are smooth and easily cleanable.
8. Nails were sticking out of the formica on the walls. These nails should be removed or properly driven into the walls.
9. The plywood surface, as you enter the bathroom, cannot be properly cleaned. This area should be painted so that it is smooth and easily cleanable.
10. The coving along the wall/floor junction was loose. The coving should be properly sealed for ease of cleaning and to eliminate bacterial growth areas that cannot be cleaned.

F. Girls' Bathroom

1. The passage way entrance door had no handle and was propped open. The door should be equipped with a handle, a self closing device, and should remain closed.
2. The window glass in the door was loose. This should be properly secured to help eliminate breakage and possible injuries.
3. The coving along the wall/floor junction was non-functional. This should be totally replaced to provide proper seal as well as to aid in housekeeping.
4. Nails were sticking out of the sink cabinets. These should be pounded in or taken out to eliminate the potential hazards.
5. The plywood facing on the sink cabinets cannot be cleaned. This area should be painted so that it is smooth and easily cleanable.

6. The exhaust fan had an excessive amount of dirt buildup on it. This fan should be regularly cleaned and maintained. This will also increase its longevity.
7. The formica which covers the walls was loose. This should be properly sealed to the wall to prevent further damage to the formica and aid in housekeeping.
8. There were no covered waste receptacles in the bathroom. A small covered waste receptacle should be placed in each stall for the proper disposal of sanitary napkins.
9. There was no soap available within the bathroom. Soap should be provided at each lavatory to help facilitate proper handwashing.

G. Weight Room

1. There was a cross connection at the drain for the ice machine. There was no scoop for the ice machine and students were noted using their hands to get ice. There should be an air gap of at least two inches between the end of the drain line and the floor drain. Basic siphonage of sewage could contaminate the ice machine, its contents, and the potable water supply. A scoop should also be placed at the ice machine and stored in such a way that it is protected from contamination.
2. The industrial dryer was not properly vented. The dryer should be vented to the outside air.
3. The clothes hamper cannot be cleaned. This wooden container should be smooth and easily cleanable. A cover is also recommended to help reduce odors in this area.
4. The homemade weight bench was very unstable and poses a very hazardous condition. This bench should not be used in its present state. It should be placed level on a hard surface and reinforced if it is to receive further use.
5. There were no guards over the light bulbs in this area. All lights should have protective covers to help eliminate breakage and possible injury due to falling glass.
6. The cushions and storage area were very dirty. This storage area should be thoroughly cleaned. The cushions should be cleaned with a chlorine solution.
7. There was a snow blower stored next to the weight machine. The snowblower should be removed from the weight area and the oil cleaned up off the floor.
8. The weight lifting equipment located within this area was soiled. All equipment should be cleaned on a regular basis.
9. There was a half-inch opening under the door which goes directly to the outside at the rear entrance of this room. This area should be properly enclosed to eliminate heat loss, entrances for insects and rodents, and to aid in housekeeping.
10. Mats or cushions were stored against the ceiling mounted heater. These should be moved away from the heater to eliminate the present fire hazard.

11. The interior surface of the whirlpool tub had excessive deposits. There was no back siphonage device between the whirlpool and the potable water supply. The whirlpool should be thoroughly cleaned after each use. A vacuum breaker or anti siphon device should be installed on the (inlet) potable water supply line prior to entering the machine.
12. The electrical face plate covers were missing from the electrical outlets in the whirlpool room. The covers should be replaced as they are a hazard in their present state.
13. The fluorescent light above the whirlpool was not properly wired. The extension cord hanging down is a potential shock hazard and should be removed.

H. Classrooms, Offices, and Basement Area

1. Deficiencies in the main hallway janitor closet were: door handle; the light bulb over the sink was not protected; the slop sink, walls and floor were very soiled; and brooms were lying on the floor. The door handle should be replaced so that this room can be locked. A protective cover should be placed over the light bulb. The sink, walls and floor should be cleaned. All cleaning equipment should be properly stored above the floor.
2. The wiring for the ceiling mounted light fixtures in the first and third classrooms on the northwest side of the building were not properly covered. The cover plates should be replaced to protect the ceiling area around the wires and to enhance the appearance of the classrooms.
3. The light guards or covers in the first classroom on the northwest side were loose and hanging down. These should be properly secured for the safety of the students.
4. There were no screens on any of the classroom windows. All openable windows should be screened to prevent the entrance of insects.
5. There was severe water damage to the ceiling in the back corner of the third classroom on the west side of the building. The water leak should be repaired and the ceiling tiles replaced.
6. Many of the classroom walls were cracked and non-cleanable. All wall surfaces should be smooth, nonporous and easily cleanable.
7. The storage closets within the principal's office were cluttered with combustible materials. These areas should be cleaned, all excess materials removed and floor storage eliminated.
8. The molding on the door frame going into the principal's office was missing. This should be replaced to cover the rough edges and to aid in cleaning the surfaces.
9. The molding on the corners, throughout the hallway, were pulled loose or missing and nails were sticking out. The molding should be reattached and the nails reset flush with the molding surface.
10. There was no coving in the hallways at the wall/floor junction. Coving should be put down to aid in cleaning and to eliminate water from getting under the floor.
11. The concession room was dirty and cluttered with unused equipment. All excess equipment should be removed and the concession room should be cleaned after each use.

12. The popcorn machine was soiled. This piece of equipment should be cleaned after every use.
13. Fifty pounds of coconut oil was not stored properly. The lid on this container should be sealed tight and stored with the other concession supplies.
14. There was no ventilation provided in the reading room of the student development center. This room should be equipped with a mechanical air exchange system capable of one complete air change each six minutes.
15. There was one hot water type heater for the multi-room student development center. The other rooms in this area should be equipped with electric heat and individual thermostats capable of maintaining a uniform temperature of 68 to 74 degrees fahrenheit.
16. There were an excessive amount of combustibles scattered throughout the student development center office. This area should be cleaned and all combustible materials removed to eliminate the fire hazard and to aid in housekeeping.
17. The teachers' lounge was dirty; there was no soap nor towels available, and there were ants in this area. This area should be thoroughly cleaned. Soap and towels should be continuously available at the lavatory. Control measures should be taken to remove the insects such as spraying or removal of the ants' food source.
18. Improper storage of cleaning equipment was noted in the storeroom off from the teachers' lounge. All cleaning equipment should be cleaned after each use and all mops should be hung up so that they can air dry.
19. Aluminum curtain rods were lying in the hallway of the basement at the bottom of the steps. These should be properly stored or discarded as they are producing a serious tripping hazard.
20. A pile of wires, chairs, and mop heads were observed in the basement hall. This area should be cleaned and all items properly stored.
21. Combustibles were being stored under the basement stairs. The cardboard boxes should be removed from this area and discarded.
22. Bare wires were noted hanging from the ceiling in the main electrical area at the entrance of the boiler room. These wires should be covered with twist on wire connectors or electrical tape.
23. There was no inspection tag on the fire extinguisher in the boiler room. The extinguishers that are not accessible to the students should be inspected every six months, minimum, and properly tagged as to their last inspection.
24. The fire extinguisher in the janitors' office was last inspected in 1974. All extinguishers should be checked at once.
25. There was a broken window and ripped screen on the outside entrance to the boiler room. This window and screen should be repaired to eliminate entrances for insects.
26. The door frame and door for the boiler room exit was not properly fitted. Weather stripping or additional molding should be placed around this area to eliminate the "air gap".
27. The electrical junction box attached to the hot water heater was not properly covered. The cover plate should be replaced.

28. The storage area in back of the boiler room was cluttered with supplies and combustible materials. This area should be cleaned; all items should be stored off the floor; and unused combustible materials should be discarded.

II. High School Outside Environmental Safety Conditions

1. The aluminum awning which covers the sidewalk was broken and structurally unsound. This was located at the north entrance of the high school building. This awning should be repaired so it can function as intended and to eliminate the safety hazard.
2. The vent openings in the foundation around the building were not screened. All foundation openings should be screened to help prevent the entrance of insects, rodents, and small animals.
3. All wooden surfaces on the outside of the building were severly weathered and deteriorated. These surfaces should be repaired and resurfaced to prevent further deterioration and structural damage.
4. Several window frames were "totally" rotted on the west side of the building. These should be replaced before they fall apart.
5. The caulking around the windows and window frames has dried out and is loose. All areas should be re-caulked to eliminate heat loss, entrances for insects, and to prevent the further loosening of the window glass.
6. Telephone wires were hanging down on the west side of the building. The wires should be properly secured to prevent further damage.
7. There was no cover for the regulator and valves on the LP gas tank. A cover, with a lock, should be provided to protect the controls from vandalism.
8. Eighteen broken windows were noted around the building. These should be replaced to prevent heat loss, entrances for insects, and possible injuries due to falling or fallen glass.
9. The steel grating over the two window wells on the west side of the building was not secured. This grating should be secured to prevent possible injuries.
10. Many roof shingles were noted to be loose. These shingles should be securely attached to prevent possible water leaks and further structural damage.
11. Boards with protruding nails in them were noted lying around the building. These should be picked up to remove the possible injury hazards.
12. A piece of the concrete sidewalk was missing. This area should be repaired so that the walking surfaces are uniform and do not present a tripping hazard.

III. Gymnasium

1. Five rows of fluorescent light fixtures were not working in the gym. These tubes should be replaced to insure proper lighting levels in all areas of the gym.
2. There was no sealed junction between the floor and the walls of this building. Coving is recommended to form a smooth and cleanable junction between the floor and walls. This should be done all the way around the inside of the gym.
3. All types of equipment, both furniture and gymnastic, were piled on top of each other in the northwest corner of the gym. The storage of all equipment should be done in an orderly manner so as to not cause safety hazards.

4. Some of the insulation covering the inside walls has been ripped and pulled down. These areas should be repaired to help prevent heat loss as well as to enhance the building's appearance.
5. All of the gym equipment, including the mats, were dirty. This equipment should be cleaned with a germicidal solution on a regular basis. This will help cut down on infected abrasions.
6. Papers and debris were noted against the grill work on the inside of the duct system. These areas should be cleaned out to prevent blowing debris, aid in housekeeping, and to increase the heating/ventilation efficiency.
7. Portions of the interior plywood wall were loose, had nails sticking out, were broken, and were non-cleanable. All interior plywood surfaces should be securely fastened, repaired, and covered so that they do not produce a safety hazard and can be cleanable.
8. Numerous electrical outlet covers were broken. These should be replaced with non-breakable covers to protect the electrical system.
9. Much of the molding, which covers the plywood corners, was missing or loose. These areas should also be repaired to aid in housekeeping and to eliminate potential injuries.
10. Molding with protruding nails was lying on the floor among the gym equipment. Molding was also sticking through the insulation on the walls. All wood scraps should be properly disposed of.
11. Ants were noted throughout the building. It is recommended that the school acquire the services of a certified pest control operator for routine spraying.
12. The exit lights at the southeast and northwest gym exits were not in operating condition. These fixtures should be repaired or replaced and put back into operation.
13. The wall-mounted wooden box which houses the amplifier for the music system was very unstable. This box should be repaired and securely hung. This will eliminate the existing safety hazard as well as provide better protection for the amplifier.
14. Wheels were missing from the large volley ball stands. This heavy equipment should be provided with wheels so that it can be moved safely.
15. The filters for the roof mounted heating and cooling system were lying on the ground. These filters should be replaced and the doors on the equipment properly secured.
16. The security cover on the ladder leading to the gym roof was open. This cover should be locked to help prevent unauthorized access to the roof.
17. Pieces of concrete were noted at the northeast entrance of the gym. These should be disposed of to eliminate the tripping hazard.

IV Summary

The general overall condition of the high school was poor. There was no evidence of housekeeping in any of the areas inspected. Many safety hazards were noted throughout the two buildings and should be corrected as soon as possible.

A copy of the Atwood Hinzman Consulting Engineers report of August 3, 1979 and the Carroll Martella A. I. A. Architect report of August 31, 1979 has been attached for further information dealing with the two buildings.

If there are any questions concerning this report, please feel free to contact this office.

Sincerely yours,

Denis L Baker

Denis L. Baker, R.S.
District Sanitarian
Billings Area Indian Health Service

Attachments:

cc: President, Northern Cheyenne Tribal Council, Lame Deer, MT 59043

Chairman, Northern Cheyenne Tribal Health Board, C/O Northern Cheyenne Tribal Office, Lame Deer, MT 59043

Superintendent, Bureau of Indian Affairs, Northern Cheyenne Agency, Lame Deer, MT 59043

Service Unit Director, PHS Indian Health Center, Lame Deer, MT 59043

III

APPROPRIATED FUNDS NOT COMMITTED TO BUSBY SCHOOL

TRIBAL COUNCIL OF THE NORTHERN CHEYENNE
NORTHERN CHEYENNE RESERVATION
LAME DEER, MONTANA

TRUE COPY

RESOLUTION NO. 108(82)

A RESOLUTION OF THE NORTHERN CHEYENNE TRIBAL COUNCIL REGARDING LOST OR MISPLACED BUSBY SCHOOL FUNDS BY THE BUREAU OF INDIAN AFFAIRS.

WHEREAS, the Busby Boarding School by and through its Board of Directors and the Northern Cheyenne Tribal Council are contracting with the Bureau of Indian Affairs for the providing of educational services at said school; and,

WHEREAS, through Federal budget interworkings, and the transfer from the Band Analysis allocation to funding under the Equalization Formula, it appears as though certain funds have been lost to the Busby Boarding School, either through bureaucratic mishandling or lack of proper safeguards; now,

THEREFORE BE IT RESOLVED as follows, to-wit:

1. That demand is hereby made by the Northern Cheyenne Tribal Council that there be an immediate, impartial audit and/or investigation made by the Bureau of Indian Affairs to determine why certain funds appropriated to the Busby Boarding School have not been committed, paid over, and/or allocated to the Busby Boarding School although the same has been budgeted by the Bureau of Indian Affairs.
2. That in the event the Bureau of Indian Affairs does not adequately initiate and maintain the investigation in regard to the loss of funds, that the Congressional Delegation of Montana representing the Northern Cheyenne Reservation be immediately contacted and informed of the events herein.

PASSED, ADOPTED AND APPROVED by the Northern Cheyenne Tribal Council by 17 votes for passage and adoption and 0 votes against passage and adoption this 22nd day of March, 1982.

Allen Rowland, President
Northern Cheyenne Tribal Council

ATTEST:

Linda M. Bahr, Secretary
Northern Cheyenne Tribal Council

STANDARD FORM 26 JULY 1966
GENERAL SERVICES ADMINISTRATION
FED. PROC. REG. (41CFR) 1-16.101

AWARD/CONTRACT

PAGE 1 OF 2

1. CONTRACT (Proc. Inst. Ident.) NO.: C50-C-1420-5212
2. EFFECTIVE DATE: OCT 0 4 1979
3. REQUISITION/PURCHASE REQUEST/PROJECT NO.:
4. CERTIFIED FOR NATIONAL DEFENSE UNDER BDSA REG. 2 AND/OR DMS REG. 1. RATING:

5. ISSUED BY CODE
Bureau of Indian Affairs
Billings Area Office
316 North 26th Street
Billings, Montana 59101

6. ADMINISTERED BY (If other than block 5) CODE
CONTRACTOR'S COPY

7. DELIVERY
☐ FOB DESTINATION
☐ OTHER (See below)

8. CONTRACTOR NAME AND ADDRESS (street, city, county, State and ZIP code) CODE FACILITY CODE

Busby School Board
Northern Cheyenne Reservation
Busby, Montana 59016

9. DISCOUNT FOR PROMPT PAYMENT

10. SUBMIT INVOICES (4 copies unless otherwise specified) TO ADDRESS SHOWN IN BLOCK
ATTN: Division of Education

11. SHIP TO/MARK FOR CODE

12. PAYMENT WILL BE MADE BY CODE
Administrative Services Center
P. O. Box 2088
Albuquerque, New Mexico 87103

13. THIS PROCUREMENT WAS ☐ ADVERTISED, ☒ NEGOTIATED, PURSUANT TO: ☐ 10 U.S.C. 2304 (a)( ) ☒ 41 U.S.C. 252 (c)( ) P.L. 93-638

14. ACCOUNTING AND APPROPRIATION DATA
C57/-04/0/3115/119/$1,259,687.00
C50/-01/0/3215/2664/057/$177,616.00

LETTER OF CREDIT AUTHORIZED

15. ITEM NO.	16. SUPPLIES/SERVICES	17. QUANTITY	18. UNIT	19. UNIT PRICE	20. AMOUNT
	Subject: Cost reimbursement contract for the General Operations of Busby School.				
ection					
	SF 26 - Award/Contract				
I	SF 36 - Line Items/Schedule				
II	Plan of Operation/Budget				
III	Part 200 - Special Conditions				
IV	General Provisions, BAO-428				

TOTAL AMOUNT OF CONTRACT $ 1,437,303.00

CONTRACTING OFFICER WILL COMPLETE BLOCK 22 OR 26 AS APPLICABLE

22. ☒ CONTRACTOR'S NEGOTIATED AGREEMENT *(Contractor is required to sign this document and return* ALL *copies to issuing office.)* Contractor agrees to furnish and deliver all items or perform all the services set forth or otherwise identified above and on any continuation sheets for the consideration stated herein. The rights and obligations of the parties to this contract shall be subject to and governed by the following documents: (a) this award/contract, (b) the solicitation, if any, and (c) such provisions, representations, certifications, and specifications, as are attached or incorporated by reference herein. *(Attachments are listed herein.)*

26. ☐ AWARD *(Contractor is not required to sign this document.)* Your offer on Solicitation Number ________________, including the additions or changes made by you which additions or changes are set forth in full above, is hereby accepted as to the items listed above and on any continuation sheets. This award consummates the contract which consists of the following documents: (a) the Government's solicitation and your offer, and (b) this award/contract. No further contractual document is necessary.

23. NAME OF CONTRACTOR
BY John Russell Jr.
(Signature of person authorized to sign)

27. UNITED STATES OF AMERICA
BY ________________
(Signature of Contracting Officer)

24. NAME AND TITLE OF SIGNER (Type or print)
John Russell, Jr.
Chairman, Busby School Board

25. DATE SIGNED
11/30/79

28. NAME OF CONTRACTING OFFICER (Type or print)
[illegible]

29. DATE SIGNED
NOV [illegible]

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BILLINGS                                              School Funding Summary                  MON, OCT 15, 1979,  1:03 PM
*********** THESE ARE SIMULATED FIGURES COMPUTED WITH UNAUDITED DATA AND ARE PROVIDED ONLY FOR ILLUSTRATION
                                      Expenditure    Estimated    Change      ADM      ADM    Change   Dollars   Dollars   Change
School                                       1979  Entitlement  In Funds       79       80       ADM   /ADM 79   /ADM 80   $/ADM
=================================================================================================================================
CS101    BLACKFEET DORM                  $296,300.    $159,832.    -46.1%     47.0     65.0     38.3%   $6,304.   $2,459.   -61.0%
CS303    TWO EAGLE RIVER                   MISSING    $110,695.   MISSING  MISSING     40.0   MISSING   MISSING   $2,767.  MISSING
CS702 C LAME                           $1,000,000.    $925,529.     -7.4%    402.2    377.0     -6.3%   $2,486.   $2,455.    -1.3%
CS701 C BUSBY HIGH                     $1,310,000.    $872,792.    -33.4%    188.0    311.0     65.4%   $6,968.   $2,806.   -59.7%
CS909 C WYOMING INDIAN HIGH              $509,000.    $265,161.    -47.9%     93.0    118.0     26.9%   $5,473.   $2,247.   -58.9%
CS910 C ST. STEPHENS INDIAN              $537,700.    $461,201.    -14.2%    228.0    238.0      4.4%   $2,358.   $1,938.   -17.8%
---------------------------------------------------------------------------------------------------------------------------------
                                                                                                        $3,812.   $2,433.   -36.2%
        TOTALS
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Busby School
of the Northern Cheyenne Tribe

Telephone (406) 592-3646
Busby, Montana 59016

October 18, 1979

Mr. Verlin M. Belgarde
Acting Chief
Division of Education
Bureau of Indian Affairs
Billings Area Office
316 North 26th Street
Billings, Montana 59101

Dear Mr. Belgarde:

Recently we were made aware that $130,000.00 was not added to our General Fund Contract No. 4810 for FY1979. At the regular Board Meeting, October 8, 1979, the Busby School Board made a motion that these monies be added to the FY1979 General Operations Contract to be used for carry-over purposes in FY1980.

Please let us know immediately the status of the above mentioned monies.

Sincerely,

BUSBY SCHOOL

By Asad Ali Khan
Dr. Asad Ali Khan
Superintendent

AAK/lhb

Senator **Melcher.** I would like to call on another Montanan from Lodge Grass, Larry LaCounte, who is superintendent there. Superintendent LaCounte.

STATEMENT OF LARRY LaCOUNTÉ, SUPERINTENDENT, LODGE GRASS PUBLIC SCHOOLS, LODGE GRASS, MONT.

Mr. **LaCounte.** Thank you, Senator. The Lodge Grass Elementary School District is located entirely within the confines of the Crow Reservation. The size is approximately 1,400 square miles. Right now, the enrollment is approximately 87 percent Indian students. Within 2 years it looks like that percentage will be closer to 95 percent.

We depend on impact aid for approximately 65 percent of the general fund. The situation that we have at Lodge Grass which is a public school is quite similar to approximately 26 other school districts in the State of Montana. There are approximately 14 school districts that are in worse financial condition than the Lodge Grass Elementary School District. The figures that I will give you shortly will indicate that the elementary school at Lodge Grass will not be able to continue operation given the cuts in impact aid that the President has proposed. If Lodge Grass is forced to close, quite obviously these other 14 school districts will as well.

As I stated, for the prior fiscal year 1980–81 the impact aid funds comprised approximately 65 percent of the total general fund budget. The school district, unlike many others, does not place impact aid funds into any other school operating fund except the general fund because it will not spread any further than that. The taxpayers in the district have been called upon to fund entirely the transportation fund, the comprehensive fund, the retirement fund, and so forth.

Projecting the costs or the budgets of the district out over a 3- or 4-year period given the impact aid cuts as proposed by the President, in 1981–82 the 84 percent funding level of 1981 would reduce the 874 portion of the total budget—general fund budget—to 43 percent, leaving approximately—the evaluation of the district will bring in $2,075 per mill. The 43 percent of the budget provided by 874 funds—the balance would have to be provided by voted levy which would take 36 mills for the general fund on top of 25-mill mandatory county level levy and a 9-mill permissive levy and 40 mills for the other funds that I mentioned. This would bring the total district assessment to approximately 110 mills. We are already out of reason.

Going on with the recommended cuts in 1982–83, the 874 portion of the budget will reduce to 27 percent. The levy against the district will be in the neighborhood of 210 mills.

Projecting to 1983–84, the 874 budget would comprise approximately 10.6 percent of the elementary school budget requiring a total mill assessment toward the district of 330 mills.

Senator **Melcher.** Let us stop right here. Before we get into any more fantastic figures. These are voted levies, are they not?

Mr. **LaCounte.** Yes, sir.

Senator **Melcher.** Is there a snowball's chance in hell that a voted mill level of 136 mills would ever pass?

Mr. **LaCounte.** Yes. Let me explain that. It is complex. As indicated in the percentage of enrollment, the bulk of the population there are Native Americans. They, I am guessing, will pass virtually any mill assessment that is put on the ballot. However, the tax base, as in most reservation situations, is obviously based on agriculture. The agricultural economy is extremely depressed and the economy overall is depressed throughout the United States.

Again, with most reservations that are open to the Homestead Act, the agricuturally based economy is controlled primarily by non-Indian individuals. They see themselves as being placed in a position where they are forced to pick up the fiscal responsibility of the Federal Government to the extent that the Federal Government fails to do so.

Certainly it is impossible for these few people—we are talking about the parents of 5 percent of the children being enforced to pick up the funding to educate 95 percent of the children. It is an impossible situation. The sociological effects of this are fairly obvious. As in most biracial communities, racial relations are precarious at best. This kind of fiscal situation, tax situation, imposed on these farmers and ranchers who are barely making ends meet now—out of the two banks in Hardin, which are relatively small, there are 11 farming and ranching operations being foreclosed on this year.

Senator Melcher. Is this property assessed in conjunction with the requirements under Montana law or approved by the State as the proper valuation of the property?

Mr. LaCounte. Yes.

Senator Melcher. Let us take a filling station in Lodge Grass. That would be properly assessed for value according to all the rest of the filling stations in the State of Montana?

Mr. LaCounte. Yes.

Senator Melecher. What you are telling us is that since the preponderance of voters eligible to vote on a school bond in a special levy election—Indians and their property are not taxed?

Mr. LaCounte. Yes.

Senator Melcher. That they are going to vote yes? Would that force that filling station out of business?

Mr. LaCounte. Certainly.

Senator Melcher. Is it happening? What is your mill for this current year?

Mr. LaCounte. Approximately 48 mills.

Senator Melcher. So we are talking about getting up to 100 mills for a special school, right?

Mr. LaCounte. Right. That is total.

Senator Melcher. Possibly going up besides 330 mills?

Mr. LaCounte. Right.

Senator Melcher. It almost confiscates the property of someone then or forces them out of business. It also puts them in a position of being able to sell their property at a realistic price since it will carry that tax burden in order to support schools because responsibility is not met to Public Law 874 primarily. Is that correct?

Mr. LaCounte. That is correct.

Senator Melcher. We have got all kinds of economists down there at that budget office—the David Stockmans—I wish they would explain this one to us so that we can understand it. I do not think that there is any understanding except that there is a grand design, either deliberately or through a lack of knowledge of what Public Law 874 is, to accomplish that is virtually going to close down the schools in Lodge Grass or is going to result in losing the little property tax base that there is there in the community.

Do I interpret your sociological remarks to mean that you feel that it is worthwhile having the community there first of all that is important to the school?

Mr. LaCounte. Certainly.

Senator Melcher. What else does it mean?

Mr. LaCounte. It means simply that the racial tension will build between the Indian community and the non-Indian community when the non-Indian community is feeling forced to pay the Federal Government's responsibility for the education of the Indian children when the ratio of non-Indian students is so disproportionate.

Senator Melcher. How long have you been there?

Mr. LaCounte. This is my second year.

Senator Melcher. What was the teacher turnover rate prior to your coming there? It is my understanding that the teacher turnover rate during the past 15 years has averaged about 1 per 1½ years. That is how long a teacher is staying.

Mr. LaCounte. Right. About 35 to 45 percent of the year we turn over.

Senator Melcher. Thirty-five to forty percent annual turnover?

Mr. LaCounte. Right.

Senator Melcher. That is about a year and a half. The reason is primarily the tension between the Indian community and the non-Indian community?

Mr. LaCounte. No. I would say that the reason is largely lack of housing. The district is unattractive for housing developers to come in and put up housing. There is no place for teachers to live.

Senator Melcher. Has the tireslashing and other vandalism disappeared from the school grounds?

Mr. LaCounte. Pretty much.

Senator Melcher. I would compliment the community, the school administration, and the school board, and also the tribal police officers that are involved. There has been a reduction of vandalism and therefore a reduction in property loss also; slashing tires or breaking windows and doing whatever else has been going on there in the past.

I am very familiar with Lodge Grass since we used to be in the same conference in athletics in Forsythe. I have been to the school a number of times in the past. I recall graduates of Lodge Grass High School, who are extremely proud of that, who are both Indian and non-Indian. I find it very bad that the situation has deteriorated to the degree that it has. I hope that you are a successful superintendent. That school is really a very fine part of that Lodge Grass community. I hope that we can straighten out the mess with regard to the funding for education. Please proceed. I am sorry to have interrupted you. I wanted to make those comments at the time you were discussing the levies and the projected levies that might be necessary in order to keep the school functioning. Please proceed.

Mr. LaCounte. I referred to approximately 14 school districts in similar or worse condition, but financially the Lodge Grass Elementary School and the closure of any one of them creates a domino effect. Given our particular situation, because I am most familiar with that, we have a small independent elementary school district to the south of us at Wyola which is in a very poor financial state and would probably be one of the first schools to close if any additional cuts go through.

Obviously there is nowhere for their children to go to school but Lodge Grass. That dumps another 75 students on us with no additional revenue to pick it up. That hurries up the closure situation facing Lodge Grass. The only place for the students to go—we are talking now about close to 600 students—is Hardin. Dr. Phipps has already dumped a large portion of his students onto Hardin as he claimed here earlier. We are now into another class of districts that we call border town districts which are in a better financial state but they are not in a good enough financial state to be able to support an influx of reservation students if they desired to do so.

Again, the taxpayers in those districts certainly would not lend their support to that additional financial burden.

Senator MELCHER. Under Montana law it is not necessary for another school district to accept another school outside of the district. Is that correct?

Mr. LACOUNTE. That is correct.

Senator MELCHER. It is a question of acceptance by the school board of a particular district whether or not they will accept an out of district student?

Mr. LACOUNTE. In conclusion, the board of trustees at Lodge Grass is committed to equal educational opportunities for all their children and they would certainly urge everyone in the Federal Government, particularly Congress, to make every effort possible to try to see their way through to fund these schools. We do not feel that dumping them on the Bureau of Indian Affairs is the answer. The Bureau schools are facing similar cutbacks; perhaps even greater in some instances.

Noncontract Bureau operated boarding schools for example—the figures that I have seen indicate that they require two to three times the amount of money per student to provide comparable education.

On behalf of the constituency at Lodge Grass, we urge every consideration for funding levels that are able to operate the school for the children and will support the Federal Government's responsibility to do so. Thank you.

Senator MELCHER. Thank you very much, Superintendent. I think you were very fair in your presentation of the situation having a steam roller or domino effect of losing one school after another. It does not solve anyone's problem. I hope that collectively we will not only have the votes in Congress but I hope collectively we have the influence, the clout, or the wisdom, or something to instruct those people downtown at the White House level, the Office of Management and Budget of exactly what is going on here.

The children should have an opportunity for quality education. There are cuts that we can make in the Federal spending. There are several but I will not burden this record with it, that would be in the best interest of this country. These types of budget cuts are counterproductive with respect to those individual children. The concept of children being able to attend schools and receive quality education near their homes is something that should be taken into consideration.

What Superintendent Phipps has described as a 3-hour bus ride to where another school board is willing to take on the children from Busby is not what I would term quality education. Quality education depends upon having the student available for the learning process in a situation where the student is not tired out, drug through a knot hole, or such.

Furthermore, it should be made available to the students in their own community rather than 80 miles away; I guess that is what Busby is from Harden. It is generally an unpleasant trip unless they have improved that highway considerably since I have driven on it. This is not what I would call quality education.

I do not want to give you any more of my own philosophy because you people have come a long distance to testify and we want to hear from you.

Again, thank you Superintendent LaCounte and without objection, your statement will be inserted into the record at this point.

[The statement follows. Testimony resumes on p. 169.]

PREPARED STATEMENT OF LARRY LA COUNTE, SUPERINTENDENT OF SCHOOLS, SCHOOL DISTRICT NO. 27, LODGE GRASS, MONT.

I. INTRODUCTION

The purpose of this document is to discuss several concerns relative to the President's recommended reductions in payments to school districts via P.L. 874 (Impact Aid). The subsequent impact on Lodge Grass Montana Public Schools shall also be displayed via documentation of the dependence this district has on P.L. 874 funds.

In addition, an overview of the Impact Aid program especially as it pertains to "Super A" public school districts which enroll American Indian students shall be provided.

II. IMPACT AID: AN OVERVIEW

Public Law 81-874, the Impact Aid Act was created by Congress in 1950 to provide financial assistance to public school districts which educate the children of military personnel and other federal employees and which include tax-exempt military bases or other federal property within their district boundaries.

Funds received from the Impact Aid Program are "in lieu" of the local property taxes that would be collected if the property were not owned by the Federal Government. The funds are included in the general operating budgets of the school districts. The law does not require any specific use of these funds, except that they cannot supplant or replace funds that the district is entitled to under any state aid program.

Students who are eligible to be counted by public schools requesting Impact Aid assistance are grouped into three distinct classifications. The first classification involves students whose parents live on and work on federally owned or controlled property which is tax-exempt. Those students are referred to as "A" children. Indian students whose parents live on federally owned or controlled tax-exempt property, regardless of where they work, are counted as "A" children.

The second classification involves students whose parents live on, but work off, federally owned or controlled tax-exempt property or live off, but work on, said tax-exempt property. These students are referred to as "B" children.

Public school districts also identify Indian Special Education students since this classification generates Impact Aid funds at 187.5 percent of the basic entitlement rate.

There are three different methods which may be used to determine how much Impact Aid a school district will receive for each eligible student. This is called Local Contribution Rate (LCR). Montana uses the Individually Selected Comparable District method whereby five "comparable" districts are identified to compute an "average" cost per pupil which then becomes the Local Contribution Rate. (Amount of Impact Aid funding per each eligible student.)

The Montana Office of Public Instruction computes the local LCR by dividing all locally generated funds by the total enrollment. This process ultimately works in direct opposition to the intent of the law. (School districts on Indian reservations have little if any taxable land. Thus, few local funds are generated via mill levies. When the Office of Public Instruction computes the annual LCR, five "comparable districts" are chosen which must be within $50.00 of the local district receiving the LCR. Thus the "poor" districts become poorer and the "rich" richer.)

Although some Indian children originally benefitted from the Impact Aid Program, there was concern about the possible duplication between this program and the Johnson-O'Malley Program. In 1958, the Impact Aid Program was amended to specifically include public schools educating children residing on Indian lands, since said lands are also tax-exempt. At this time, the Johnson-O'Malley Act was amended to be a suppemental program instead of one designed for basic school support.

Public Law 81–874 (Impact Aid) has been reauthorized periodically and numerous revisions have been made. The Education Amendments of 1974, Public Law 380, included two revisions of Impact Aid which directly affected public schools educating children residing on Indian lands. These amendments allowed any children who resided on Indian lands to be counted in the "A" category for full entitlement regardless of where their parents were employed.

The amendments also provided an additional 50 percent of the per pupil entitlement for Indian children receiving special educational services. These two changes took effect in 1976.

Public Law 95–561, the Education Amendments of 1978, reauthorized the Impact Aid Program for five more years. Impact Aid Program amendments increased payments for Indian "A" students by 25 percent, increased payments for Indian special education students by 37.5 percent, insured the equal particippation of Indian children in the school program, and required the dissemination of information to, and the involvement of, the tribes and parents of Indian children concerning the school program. These amendments require a school district to establish policies and procedures by November 1, 1979, to insure increased participation of Indian parents and tribes in the education process.

III. CARTER/REAGAN PROPOSALS

President Carter's fiscal year 1982 budget as sent to Congress in January, 1981, included in the education budget, a call for deep cuts in the Federal Impact Aid Program. For 1982, Presilent Carter's budgets recommended no payments for "B" children and no payments for "A" children in those districts where "A" children comprise less than 20 percent of the enrollment. For those districts where "A" children comprise 20 percent or more of the enrollment, 90 percent of the entitement would be paid.

For fiscal year 1981, Mr. Carter proposed a recission of 148 million dollars. The recission would provide payments to all eligible applicants at 75 percent of the amount appropriated for fiscal year 1980.

In (March 1981) the Reagan administration proposed Impact Aid changes for fiscal year 1982 to make payments for "A" children in "Super A" districts (those districts with 20 percent or more "A" children enrolled) at 90 percent entitlement; payments for "A" low-rent housing children in "Super A" districts would be limited to 20 percent entitlement; and payments to "B" military or civilian children would be eliminated. In fiscal year 1981 the payments for maintenance and operations assistance were subsequently made at 95 percent of a district's entitlement via a national recission of $67 million.

More recently (February, 1982) President Reagan has requested that the Congress eliminate all "B" category funding and limit the "A" category funding to 80 percent of the fiscal year 1982 "A" payment. The fiscal year 1982 payment is set for approximately 86 percent of the fiscal year 1981 payment.

The President has also proposed that fiscal year 1983 payments be computed at 80 percent of the fiscal year 1982 "A" student entitlement with no payments for "B" students. The proposal would mean that school districts would receive approximately 68 percent of their fiscal year 1981 "A" student entitlement.

The net effect on Lodge Grass Public Elementary Schools and on other similarly affected districts would be the closing of many reservation public schools.

There are 14 reservation school districts with a lower taxable valuation than Lodge Grass Elementary. If Lodge Grass is forced to close, it seems probable that at least 14 others will as well. As can be seen in the accompanying supportive data, there is no doubt that Lodge Grass could not operate. Additionally, a domino effect would develop. For example, in Big Horn County, Montana; Wyola Elementary, a small independent elementary school district thirteen miles south of Lodge Grass would be one of the first forced to close as the result of the cuts in Impact Aid. The Wyola students would have no alternative but to attend Lodge Grass, further burdening the inadequate revenue and accelerating the closure of Lodge Grass Elementary. The only school facilities available then become Hardin, a larger and more financially sound school district forty miles northwest of Lodge Grass. Hardin's facilities could not handle the influx of students nor would the taxpayers vote to support the education of some 500 out-of-district students. Indian children, entitled to the equal educational opportunity by law and treaty, would then become the total responsibility of the Federal Government.

The Government would have to open Bureau of Indian Affairs schools at an estimated cost of nearly twice the per pupil operating cost of the Impact Aid Program.

IV. LODGE GRASS ELEMENTARY SCHOOLS

Lodge Grass School District No. 27, Big Horn County, is located entirely within the exterior boundaries of the Crow Indian Reservation serving an area of approximately 1,400 square miles. The District is comprised of two attendance centers; one at Lodge Grass serving approximately 315 students, and a one-teacher country school on the east slope of the Wolf Mountains. An increasing Indian student enrollment and a declining non-Indian student enrollment combine for a projected overall increase in student population of around 30 percent in the next five years. Percentage comparisons from the eighth grade to the kindergarten indicate the percentage of Indian enrollment will increase from the present 87 percent to about 95 percent within two years.

The sociological impact of Impact Aid cuts, in bi-racial communities like Lodge Grass is rarely considered and potentially devastating. Virtually all Indian reservation communities are rural which means the tax base is based upon agriculture. The agricultural industry on reservations subjected to the Homestead Act tend to be heavily dominated by non-Indian interests. These factors combine to create a situation wherein the non-Indian farmer/rancher is taxed to support the education of Indian children to the extent that the Federal Government is negligent in its responsibility to do so. Inasmuch as the percentage of Indian vs. non-Indian voters is overwhelming, there is rarely a problem passing mill levies. There is a problem in expecting taxpayers, whose agriculturally based economy is severely depressed, to assume the fiscal responsibility of the Federal Government. This scenario will create, in communities where race relations are precarious at best, an explosive situation extremely damaging to the welfare of our youth.

Approximately 90 percent of all students are eligible for Title I services and for free or reduced price lunches. This reflects the fact that Lodge Grass is a low-income community where the average family annual income is less than $4,000.

The district employs 43 certified (instructional and administrative) personnel and approximately 60 non-certified (support) personnel.

The Board of Trustees is committed to the provision of an equal educational opportunity to all students who attend Lodge Grass Public schools. The reduction in Impact Aid and in other important educational program funds is severely impairing the efforts of the Board.

V. DISTRICT NO. 27 DEPENDENCE ON IMPACT AID

The following profile of District budgets illustrates the overall dependence of Lodge Grass Elementary schools on the receipt of Impact Aid funds. In general, the district is primarily dependent on Impact Aid for the support of the General Fund and the School Lunch Program. Inasmuch as Impact Aid funds are not adequate to be spread further, the local taxpayers have been supporting the Transportation Fund, Comprehensive Insurance Fund, and the Debt Service Fund through a combined assessment of 40 mills (1981–82) which is not reflected in the accompanying charts on the General Fund.

LODGE GRASS ELEMENTARY SCHOOL DISTRICT NO. 27

1980–81:

Total Public Law 874 payment fiscal 1981 equals $456,272.

Total operating budget equals $702,715.

Public Law 874 comprises 65 percent of total budget.

1981–82:

1981–82 budget is $889,605.

Eighty-four percent of 1981 Public Law 874 is $383,268, which would comprise 43 percent of the budget.

Total budget	$889, 605
Public Law 874	383, 268
	506, 337
Foundation	431, 000
To be raised by voted levy	75, 337

One mill brings $2,075 in revenue which would require the assessment of 36 mills 1981–82. Plus a mandatory county levy of 25 mills, and a 9 mill permissive levy bringing the total to 70 mills for the general fund alone.

Assuming 1983 and 1984 funding levels at 58 percent and 25 percent respectively, budget increases at 10 percent per year, and no adjustment in state foundation program, and no change in taxable evaluation, the implication for the district would be:

1982–83:

Public Law 874—$456,272 times 58 percent equals $264,638.

1982–83 budget $889,605 times 110 percent equals $978,566.

Total budget	$978, 566
Public Law 874	264, 638
	713, 928
Foundation	431, 000
To be raised by voted levy	282, 928

Would require 136 mill voted levy assessment in 1982–83, plus 34 mills for the county and permissive levy for a total of 170 mills for the general fund.

1983–84:

Public Law 874—$456,272×25 percent=$114,068.

1983–84 budget $978,566×110 percent=$1,076,423.

Total budget	$1, 076, 423
Public Law 874	114, 068
	962, 355
Foundation	431, 000
To be raised by voted levy	531, 355

Would require a 256-mill assessment in 1983–84, plus 34 mills for the county and permissive levy for a total of 290 mills for the general fund.

As can be seen, the district could not operate in 1982–83. Parents representing 5 percent of the children cannot be asked to provide additional tax dollars to educate the other 95 percent. That is the Federal Government's responsibility.

Any decreases in the Impact Aid Program will severely limit the District in the provision of educational services. Contrary to popular belief, Indian students (in Montana public schools) generate no funds for basic support from tribal or Bureau of Indian Affairs sources. State and County revenues plus the Impact Aid funds account for more than 95 percent of the total educational budget. If either are reduced, affected school districts have no other funding alternatives.

SUMMARY

In summary, this document has been intended to address the following issues to the Lodge Grass Public schools involvement in and dependence on the Impact Aid Program:

1. Public Law 81–874, the Impact Aid Program, has several amendments that specifically address the unique status of Indian levels and educational finance;
2. The Reagan Administration has effected a recission of Impact Aid funds for FY 81 and 82, and has proposed further reductions for FY 83 and 84.
3. Lodge Grass Elementary schools, District No. 27, is located within the exterior boundaries of the Crow Indian Reservation; 60 percent of the lands are non-taxable;
4. Lodge Grass Elementary schools are dependent on Impact Aid funds for approximately 65 percent of its overall budget; and has virtually no other alternative to generate funds to replace Impact Aid revenues.
5. Any reduction in Impact Aid funds would have disasterous consequences for Lodge Grass schools and other school districts affected by the presence of Indian lands;
6. The district recommends that prior to changing the Impact Aid Program and/or eliminating a percentage of its funds, that the Congress study carefully the potential impact on those schools affected by the presence of Indian lands.

VIII. CONCLUSION

In conclusion it is the recommendation of School District No. 27 administration and Board of Trustees that prior to any changes in the Impact Aid Program the Congress assess totally the potential impact of said changes on those districts whose lands are in trust (non-taxable) status and whose finances and future are greatly dependent of the Impact Aid Program.

Those "Super A" districts affected by the presence of Indian Reservation lands are unique and must be studied carefully.

In 1958, the Congress included Indian students as eligible to generate Impact Aid funds since Congress realized that the Indian Reservations were analogous to other federal installations in the lands were not taxable and thus basic school support were severely limited by their presence.

It should also be noted that the Indian people and Indian nations have a unique historic and legal relationship with the Federal Government. Indians are unique from other minorities since in virtually every tribe's membership has been guaranteed the right to an education as provided for in the hundreds of treaties the tribes and the Federal Government entered into during the 19th century.

Further, the 81st Congress created the Commission on the Review of the Federal Impact Aid Program. The Commission in its report to the Congress on September 1, 1981, recommended, among several other recommendations;

I. "That the Impact Aid Program authorized by P.L. 874 be continued";

II. "That all entitlements under the Impact Aid Program be funded fully . . ."; and

III. "That:

> "(a) The Congress recognize that the United States has a special and unique obligation with respect to the education of Indian children which arises from treaties between the United States and Indian tribes and that the Impact Aid Program is one of several means by which the United States can, in part, satisfy that obligation;
>
> "(b) The education of Indian children be available in such a form and in such a manner as will enable them both to perpetuate their existence as Indian people and to function effectively in the majority society and that decisions regarding the conduct of their education should be made by their parents and the tribes of which they are members; and
>
> "(c) To the extent that the education of Indian children is carried out through local educational agencies, as determined by their parents and the tribes of which they are members, these children should have the full rights of citizens under the education laws of the States, as well as the benefits which accrue to them under the treaties of the United States, and that the Impact Aid Program be specifically designed to accommodate those rights and provide, in part, those benefits."

Finally, the Reagan Administration has effected or has proposed numerous other reductions in program funds that heavily impact on the social and educational well-being of American Indians.

The overall quality of life on Indian reservations, already lower than mainstream America, is eroding even further. Felix S. Cohen, in "The Erosion of Indian Rights, 1950–53, A Case Study in Bureaucracy," Yale Law Journal, vol. 62. (1953), p. 390, stated:

"Like the miner's canary, the Indian marks the shift from fresh air to poison air in our political atmosphere . . . our treatment of Indians, even more than our treatment of other minorities, reflects the rise and fall of our democratic faith."

The United States Commission on Civil Rights, Washington, D.C. 20245, in its June, 1981, report entitled "Indian Tribes, A Continuing Quest for Survival" state that several years have elapsed since Cohen's supportive statements for Indian people. Similarly, several shifts in policy toward Indians have transpired. The point is the same; however, as the Commissioner's report illustrates:

"If this society through its government does not live up to its promises and commitments to Indian people, then no rights are secure. A society is not judged by how well it treats its rich or politically powerful members, but by how well it treats its less powerful groups. Indians are perhaps the least powerful group in American society."

The Board of Trustees, School District No. 27, Lodge Grass, Montana, on behalf of Indian Reservation residents, urge the Congress to recognize its commitment to American Indians, fund fully the Impact Aid Program and other educational programs that affect American children, and thus further assist the various Indian tribes in their quest for self determination.

Senator MELCHER. Joseph Abeyta, superintendent of Santa Fe Indian School, Santa Fe, N. Mex.

STATEMENT OF JOSEPH ABEYTA, SUPERINTENDENT, SANTA FE INDIAN SCHOOL, SANTA FE, N. MEX.

Mr. ABEYTA. Senator, my name is Joseph Abeyta, and I am from the Santa Fe Indian School in Santa Fe, N. Mex. We have prepared our testimony that has been submitted, and I intend to summarize that. I would like to have the total testimony submitted for the record.

Senator MELCHER. Fine. It will be made a part of the record following your testimony.

Mr. ABEYTA. Senator, as you are aware, the All Indian Pueblo Council contracted with the Bureau of Indian Affairs for the operation of the Albuquerque Indian School which has since been moved to Santa Fe. We did so under the provisions of Public Law 93–638, the Indian Self-Determination Act, and we did so with an understanding that there was going to be support for the principals of self-determination.

I appreciate the opportunity to come to Washington and to have an opportunity to address you, because we are very frustrated and we are very discouraged with what is happening to us, particularly with respect to what we consider to be a commitment and obligation of the Federal Government and the administration of those responsibilities by the Bureau of Indian Affairs.

Over the years, I think that it is important to state that we realize some success. The Albuquerque Indian School, as you recall, was suffering and having a great deal of difficulty. Today, Senator, we have children that are being admitted to the University of New Mexico. We have a couple of kids, as a matter of fact, that have been given presidential scholarships by the president of the university for academic performance. One of our girls scored the highest on the engineering entrance exam of other Indian students in the area. We have kids that are performing at grade level and for us, who are familiar with the history of Indian education, that is quite significant.

It used to be, in years past, that you would pick up a document and were saddened by the fact that as kids stayed in school, they seemed to go in reverse. Our kids have changed that; they are succeeding.

We were accredited by the North Central Accrediting Association. We were accredited by the State. We have had lots and lots of recognition. This is slipping through our hands because we do not have the financial support that is necessary.

The first recommendation that I have is in regard to Johnson-O'Malley. As has been commented on earlier, contract schools are no longer for Johnson-O'Malley. It is a significant program and it is very important to our survival. Our recommendation is that contract schools be made eligible. We need the money like everyone else and I think that if anyone wanted to take a look, we can show that we are using the money in an appropriate way and that it is impacting students in a very significant way.

The second recommendation that we have is in regard to the proposed regulations for Public Law 97–35 that would declare us ineligible for funding that we have been eligible for in the past under the Elementary and Secondary Act—particularly library resources.

On the results of the California test of basic skills that was just given, our kids really did an extraordinary job in reference skills. It is partly because of the program that we have been able to put together using money from title 1. The recommendation, Senator, is that we be made eligible as a contract school along with every other school that has Indian children.

Our third recommendation in regard to the proposal for moving title 4 programs from the Department of Education over to the Bureau of Indian Affairs is that it should not take place. Based on our experience with the Bureau of Indian Affairs and their ability to administer programs, we think that the relationship that we have developed with the people over at OEO would go down the drain, figuratively speaking, and that our kids would suffer.

We are not opposed to the concept or the idea of consolidation and we are not opposed to any idea that promotes efficiency but the proposal really is weak if something drastic is not done as far as the Bureau of Indian Affairs is concerned and their ability to administer programs.

As far as our contract goes specifically, our recommendation is that contract support dollars be made a part of the funding formula. The situation now, Senator, is that we enter into contract yearly with the Bureau of Indian Affairs with an understanding that there is going to be money available to support that contract based on a negotiation with the Government. We find out halfway through the year that the Bureau simply does not have the money to support that contract and we are forced into an extremely awkward situation of having to administer our program without any dollars.

In regard to the equalization formula, Senator, we strongly recommend that there has got to be something done in regard to the cost-of-living increases that we have all been subjected to. The formula has no means presently for accounting for that cost-of-living increase.

Seventy percent of my budget goes into personnel costs. My staff, just like any other staff in the country, wants to have increases that we are not able to give them because the formula does not have the means for incorporating those increases.

Reading the paper on the way out here, I understand that employees of the Federal Government are now negotiating their increase. We are in no position to negotiate because there is not a means. The recommendation in regard to the equalization formula, Senator, is that there be a means and that our people be equitably dealt with.

A great part of the success that our school has realized, and even more than that, the success that our kids have realized is directly related to the staff and the employees and their commitment and dedication.

After 7 years, I feel that they deserve to be rewarded in terms of an increase in their salaries. In regard to plant management, we have had our difficulties. Our recommendation is that the Bureau has got to do something in terms of developing a system for equitably distributing dollars to schools and for support of plant management. In some research and work that we have done ourselves, along with some help from the Bureau of Indian Affairs, we have come up with a figure of $2.72 per square foot for maintenance. The budget that we have now when you divide it out is in the neighborhood of $2 per square foot.

When we took over the Santa Fe Indian School in Santa Fe, we were operating on a budget that was based on the enrollment and based on the use of that facility for prior years. The school is full at the present time. All the buildings are occupied at the present time. We are operating on a budget that was based on a third occupancy. The recommendation is that something be done in regard to funding that will support an equitable distribution of dollars for plant management.

In regard to the reorganization plan that we have been asked to comment on, we are not in concurrence with the ideas that have been put forward at the present time for two basic reasons.

First, I think we have been neglected as Indian people and have been taken for granted. The meeting that I attended in Albuquerque 3 weeks ago was a bit disgusting because the people representing the Bureau came in with a package that they wanted us to buy into which, in fact, we had nothing to do with. They presented this package in the name of efficiency. They said that as a result of this plan, they were going to be more responsive and save some money. I do not think that is true. They are moving our area office from Albuquerque to Phoenix. As a school, we are going to be incurring costs.

In terms of developing those ties and have the Bureau meet its responsibilities in terms of assistance, we are going to be traveling to Phoenix at our expense. We do not have the money to support that kind of activity.

The idea may have merit, but the point is that we have not been involved to the point that we feel comfortable with accepting it. Our only alternative, Senator, is to say no at the present time.

The second to the last thing that I wanted to comment on, and again our complete testimony has been submitted, was a computer system. For goodness sakes, a couple of days ago, as I was getting ready to come out here, the Bureau was installing a computer system at school; a computer terminal. I understand they have been criticized in regard to their ability to add and to subtract. They have given us a computer that we do not need.

I am concerned that in another year the cost of maintaining that computer will be ours. We cannot afford it. Right now under Public Law 561 there is a system for documenting attendance and enrollment. I think we have become pretty good at it and I am satisfied that we are doing a good job. The only unfortunate thing is that people, apparently in the Bureau of Indian Affairs, are not able to take and digest data and be able to put it together in a way that is meaningful for those people that are asking for statistics. That is their problem and I do not want to share that responsibility.

The last thing, Senator, is in regard to Public Law 561 and 638. As I mentioned earlier, we contracted under the provisions of 638, I thought, with a good understanding in regard to what self-determination was. Then came along Public Law 561 and 561 literally makes a mockery of self-determination and 638 because 561 is so specific and as people are attempting to interpret the rules and regulations over the years. They are backing us into a corner so that there is no self-determination. We are becoming what the school used to be when it was under the Bureau of Indian Affairs. I think that is extremely unfortunate.

Senator, we have an excellent program. There have been countless numbers of people coming into Albuquerque and to Santa Fe to look at our program and verify things that we have said in previous testimonies. They go away in agreement. Our children are succeeding and they are learning. Our communities support that school. They are satisfied with the program that we have.

As I mentioned earlier, just when we seem to be on the verge of some success, it all seems to be slipping through our hands because we have no support in terms of financing to keep that program where it should be and to make it a permanent part of the Pueblo community in New Mexico.

I appreciate your time.

Senator MELCHER. I would like to compliment you Superintendent Abeyta for the success of the school. I visited the school—in fact I ate a very fine meal there and Mr. McDonald of the Navajo Nation was there. I was impressed with the efficiency and the quality that I could observe in, not just the food preparation and the meal, but also in the quality of education. I was impressed also with the fine attitude of the students and their manners. It was commendable of their own culture which I am sure the All Indian Pueblo community seeks to preserve.

The proof of the pudding is that the students that you have mentioned, in terms of their knowledge gained at the high school there—those grades 7 through 12 are indeed fortunate. Their families are fortunate to have the type of education that you are providing. I would certainly be very disappointed to see that disappear, dissipate, or fade away. You have made great strides and deserve the opportunity to continue to improve. You have done a remarkable job.

As to the computer, I completely agree with you and I would suggest that the committee inquire of the Bureau where they found all this money for a computer for this purpose. Second, I know they can add and subtract. It is obvious that they can subtract from all of the budget cuts that have been shoved at us. We will see if we can do a little better job of proportioning out where the Federal dollars go in order to maintain the quality of education that you people have built up; all you people of the Pueblo Council.

Thank you very much, Superintendent Abeyta. Without objection, your statement will be made a part of the record at this point.

[The statement follows. Testimony resumes on p. 176.]

PREPARED STATEMENT OF THE SANTA FE INDIAN SCHOOL SUBMITTED BY JOSEPH ABEYTA, SUPERINTENDENT

Mr. Chairman and members of the Senate Select Committee on Indian Affairs, my name is Joseph Abeyta. I am Superintendent of the Santa Fe Indian School, a high school for 480 students in grades 7 through 12. I come before you today to present testimony on some of the current and vital educational needs of Indian children attending Santa Fe Indian School.

INTRODUCTION

The All Indian Pueblo Council, representing the Pueblo people of New Mexico, contracted the Albuquerque Indian School program on July 1, 1977. This action was supported by Congress and Public Law 93-638, the Indian Self-Determination and Education Assistance Act. The program is now located on the Santa Fe Indian School campus.

Our concerned Indian community accepted the challenge to manage and administer its own educational program. From the very beginning, we were confident in our ability to improve on the educational programs available to Indian children. The All Indian Pueblo Council made a commitment to develop a high school program of academic excellence.

We are proud to say that today, five years later, we have realized great success. Students at our school are achieving at grade level or above. Last year, 43 out of 82 graduating seniors went on to higher education. This year, five of our students received academic scholarships to the University of New Mexico and another received a UNM Presidential Scholarship. A top woman graduate won both an engineering scholarship and a grant from the Santa Fe Women's Club.

We are now prepared to reaffirm our commitment to Self-Determination. However, we feel that government has failed to meet its commitment and obligation to Indian Self-Determination. It has handicapped us through inadequate funding and widely fluctuating program policies that have resulted in confusion, frustration, and uncertainty. For example:

I. Federal resources and programs for Indian education have been reduced, transferred, or eliminated (JOM, Public Law 97-35 (Chapters I and II), Title IV).

II. There is a lack of financial support from the BIA for basic program needs (contract support, Public Law 95-561 Equalization Formula, cost-of-living increases, plant management needs).

III. BIA operations result in waste and inefficiency (Reorganization Plan, computer system, conflict in rules and regulations between Public Law 93-638 and Public Law 95-561).

As Indian people committed to Self-Determination, we cannot continue a successful educational program without adequate financial and administrative support.

I. FEDERAL SUPPORT

During this past year, Federal programs and supplemental resources for Indian programs have been drastically reduced, eliminated or transferred. Examples we will use are Johnson O'Malley, Public Law 97-35 (the Education Consolidation and Improvement Act), Chapters I and II, and Indian Education Programs Title IV Grants.

1. Johnson O'Malley eligibility

Six months after school began, with staff and programs committed, the Bureau of Indian Affairs Central Office, made an administrative decision that contract schools are ineligible to receive Johnson O'Malley funds because they are funded under Public Law 95-561 and because they are also eligible for grants under the Department of Education, Indian Education Programs.[1]

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[1] Letter: Talley to Lovato, February 1, 1982.

The Santa Fe Indian School finds this decision to be totally unacceptable since Johnson O'Malley grants are for "the purpose of financially assisting those efforts designed to meet the specialized and unique educational needs of eligible Indians, including programs supplemental to the regular program."

My students, like public school students, have special needs and therefore should not be cheated of their eligibility for Johnson O'Malley funds. We therefore call for the immediate restitution of Johnson O'Malley funding for tribal contract schools.

2. Proposed rules and regulations of Public Law 97-35, Education Consolidation and Improvement Act, Chapters I and II

The proposed rules and regulations of Public Law 97-35 will adversely affect the Title I library program at the Santa Fe Indian School. These successful programs have been responsible for dramatic gains of remedial students in objective pre and post testing, and for gains in CTBS scores in reference skills.

The proposed rules and regulations of Chapter I of Public Law 97-35 specify "parent consultation" instead of "parent involvement" in the Title I project. We are concerned that the crucial role of parents in the planning, evaluation, and implementation of the Title I project is being underestimated in this proposed legislation.

Chapter II of Public Law 97-35 makes Bureau of Indian Affairs and contract schools ineligible for funding for which we have been eligible in the past. These funds have been used to purchase library books, supplies and equipment, and have contributed to tremendous gains in student CTBS scores in reference skills. It is essential that contract schools continue to be eligible for this funding.

It is our recommendation that these issues of parent involvement and the omission of the Department of Interior as an eligible recipient for funding be addressed.

3. Proposed Transfer of Title IV Programs from Department of Education to Bureau of Indian Affairs

The Santa Fe Indian School has been working with the Office of Indian Education on two major projects, the Accelerated Learning Program, Title IV-A Enrichment grant and the "Spirit of Art," Title IV-A Entitlement grant. The successes of these two programs have been documented by the annual grant performance reports and external evaluation. The transfer of the Department of Indian Education Programs to the Bureau of Indian Affairs will negatively affect the Title IV Indian Education grants that we operate at the Sante Fe Indian School.

If Indian education programs from the Office of Indian Education are transferred to the Bureau of Indian Affairs we feel the integrity of the types of proposals or projects accepted will be lost for two main reasons.

1. The Bureau is in the process of reorganizing and therefore is not in a position of administratively being able to take on new programs.
2. The Bureau track record for administering new and/or innovative programs leaves much to be desired.

We therefore recommend that these programs not be included in the Bureau of Indian Affairs program but be left in the Department of Education.

II. BUREAU SUPPORT

There is a lack of financial support from the Bureau for the basic program needs of the school. Contract support funds must be provided to adequately cover the additional costs incurred by a contract school. A stable unit value should be established under Public Law 95-561 and should incorporate a cost of living computation. The Plant Management allocation must be increased to adequately manage the school facilities.

1. Contract support

Contract support funds are available to contract schools and are intended to cover administrative costs that prior to contracting were not the responsibility of the school. Opinions differ about what is and what is not allowable under these funds. The problem under the present system is that once a negotiated rate is established between the school and the Bureau, the Bureau of Indian Affairs frequently lacks available funds to support that rate.

We recommend that the formula for contract schools have a built in factor for overhead costs to insure that funds will be available. This factor should reflect the overhead costs that the Bureau itself incurs in operating the Central, Area or Regional Offices, and Agencies.

2. Equalization formula

Since fiscal year 1980, all Bureau and contract schools have operated under Public Law 95–561, the Indian School Equalization Program. Funding is based on the number of students enrolled. However, the unit value is subject to change by the Bureau and varies widely throughout the year. This year, the final amount allocated per student was reduced by three percent.[2]

This decrease reflects Bureau waste and inefficiency. The Bureau's budget for Indian education for fiscal year 1982 is 255.8 million dollars. There are only 40,000 students in all BIA and contract schools. By the time this money reaches our school through Public Law 95–561. the allocation per student is only about $[illegible] 000. Now even this minimal amount is being reduced.

We recommend that a stable unit value be established that is adequate to meet the needs of our students, and that funds for their education not be decreased as a result of Bureau mismanagement.

3. Cost of living increases

The purpose of Public Law 95–561 is to distribute Indian education funds that are generated by student enrollment. Unlike the majority of Federal programs (such as Social Security), the formula does not incorporate cost-of-living increases. As inflation soars and costs to the school go up, the amount of funds generated by enrollment has remained the same or even decreased. It is our recommendation that Public Law 95–561 be amended to include a built in cost-of-living computation. This measure is essential if contract schools are to remain solvent.

4. Plant management

The All Indian Pueblo Council contracted the Plant Management program at Santa Fe Indian School in fiscal year 1982 because of our concern about this critical support service. The fiscal year 1982 budget is based on previous allocations and does not take into account the increased student occupancy of the campus (up 350 percent from 136 to 481 students). The total allocation for the Indian School facilities (349,586 square feet) is $719,003, or $2.06 per square foot. The BIA Facilities Management Central Office has stated that the minimum cost per square foot to operate a school program is $2.72.[3] Based on this estimate, an additional $231,871 is required to manage our program adequately.

III. BUREAU OF INDIAN AFFAIRS OPERATIONS

The Bureau of Indian Affairs is presently in the process of trying to respond to the Congressional mandate of Public Law 95–561 (the Indian Basic Education Act). In the Bureau's typical bureaucratic fashion, a great amount of money is being thrown at problems that should be basic management organizational procedure. It seems that no matter how much money is allocated to the Bureau, a smaller and smaller amount reaches the classroom.

1. Reorganization plan

The Bureau plan is to shut down Area Offices and divide the country into six regional blocks. This will impact our school by moving the Area Education Office from Albuquerque to Phoenix, Arizona. This reorganization plan supposedly will streamline operations, make the Bureau more accountable to local tribes, and save money. No consultation was made with the tribes and no thought was given to the cost to schools and community members to travel to offices located in other States. This reorganization will not streamline organization but make it six times more confusing; will not make the Bureau more responsible to local tribes because it takes the offices further away from the tribal communities, and it will not be less expensive because the school personnel will need additional time and effort to travel to another State.

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[2] Letter: Leppart and Routh to School Board Members, Feb. 2, 1982.

[3] Memo: BIA Facility Management Central Office, Feb. 17, 1981.

2. Computer system

A second example of Bureau waste is the plan to invest in a highly technical and expensive computer system to facilitate the Public Law 95-561 student count procedure. It is only the Bureau that feels the need to computerize this information—the schools themselves have developed an adequate pencil and paper system for data gathering. The Bureau has all information requested by Congress but seems to lack the competency to make this data available. The fact that 47 percent of all Bureau of Indian Affairs schools have fewer than 100 students should emphasize that whomever is counting students for formula funding will not have to count to over 100 and certainly will not need a computer to total the results.

3. Public Law 95-561 v. Public Law 93-638

In 1975, Congress passed Public Law 93-638 (the Indian Self-Determination and Education Assistance Act). The intent of this law was to help tribes in any possible way to operate their own educational systems and for the tribes to determine the types of educational programs which best fit the needs of Indian children. A second law was passed in 1978, Public Law 95-561 (Title XI, the Indian Basic Education Act), the intent of this law was to equalize funding for all Bureau schools through a set formula, and to impose standardized curriculum, personnel requirements and facilities. The two laws are philosophically opposed to one another and intensify rather than solve problems.

Since 1975, only 34 schools across the nation have "gone contract" under Public Law 93-638. Why? Because Public Law 95-561 is a monolith of rules and regulations which is overwhelming Public Law 93-638. Public Law 95-561 sets requirements in all areas of school operations from dormitory operation to finance and therefore leaves the term "self-determination" a mockery.

In conclusion, Mr. Chairman, we have demonstrated with this testimony that:

1. Federal resources and programs for Indian education have been slashed or abolished.
2. The Bureau through Public Law 95-561 allocations is not providing enough monies for even basic educational support.
3. At the same time, the Bureau is wasting huge amounts of money through waste and inefficiency such as reorganization plans and computer systems.

Six years ago, Mr. Chairman, the Pueblo people decided that they could operate an educational program of excellence that would meet the needs of Indian youth. We received encouragement from all levels of government. Since that time, we have succeeded but doubts are beginning to form that the government through the Bureau of Indian Affairs is not sincere in allocating sufficient funds or support to make such an educational program possible. We hope and pray with your help that these problems can be overcome.

Senator MELCHER. I am going to have to leave but the committee is going to be in very good hands with Jo Jo. Which witness would you like next? Butch O'Neal, executive director of the Kickapoo Tribal School and representative of the Association of Contract Tribal Schools from Powhatten, Kans. By the way, Jo Jo is the majority counsel. You may proceed.

Ms. HUNT [acting chairman]. Thank you, Senator Melcher. Butch would you proceed?

STATEMENT OF BUTCH O'NEAL, EXECUTIVE DIRECTOR, KICKAPOO TRIBAL SCHOOL, AND REPRESENTATIVE, ASSOCIATION OF CONTRACT TRIBAL SCHOOLS

Mr. O'NEAL. Thank you. We thank the committee for giving us the opportunity to speak today. We also thank the committee for being supportive of our cause as it has in the past and for listening to us. We have a great many problems. It is fairly obvious from the day's activities that we have a lot of problems. We have some problems that are representative of all of our schools that belong to our organization.

I am here for the Association of Contract Tribal Schools and we do have positions on all of the subjects that you have covered today.

In the first place, I guess to reiterate what everyone else has said, we definitely feel that education is a responsibility of the Federal Government. Unfortunately in our case that means that that responsibility is charged to the Bureau of Indian Affairs.

We have submitted a written testimony which the committee members and yourself have. My school board chairman, Jim Oliver, is also here with me today. He has submitted a resolution. I would like to say this and I will quote from my own writing. The Bureau of Indian Affairs continues to be the major obstacle to Indian self-determination. The Bureau of Indian Affairs discourages, hinders, and at times openly defies attempts of Indian tribes to contract for services.

As an example of that, one of our member schools from the Navajo area called and they had just gotten word from the Bureau of Indian Affairs area office that from now on when they make their letter of credit draw-down request they will no longer be allowed to make that request directly to the Treasury. It takes about 7 days turnaround time to get money that way and it avoids all kinds of problems.

The reason most schools are on the letter of credit draw-down system is because, before when schools were on the reimbursement procedure, the Bureau of Indian Affairs would lose invoices, they would deliberately stall. If you happened to be a forceful person and spoke up for the rights of Indian children, they were given a handle on you.

We need the money; we need to pay our staff. If they are allowed to turn this around again and go to that system where it may take up to—and we have documented cases—7 to 8 weeks to get our money, then we are effectively closed down for that period.

They are trying to regain control. Contract schools, as well as many other schools, are operating very effectively the way the Bureau of Indian Affairs has never been able to operate and we are doing it on far less money. They still continue to strike out at us. They want us to close down and if the Congress follows through with any more cuts, then they will have effectively closed us down.

We are down to the meat, speaking figuratively. Some of us may not be, but our programs are. You cannot take any more cuts. If we take any more cuts it is going to be a direct attack on the quality of the programs and probably will eliminate them totally. Again I am not speaking from the contract schools; aside of it. We cannot take any more cuts. I think it is amazing that a lot of the schools continue. It shows a real commitment by the community to support their schools. We are taking the moneys meant for other purposes to keep the schools operating.

One of our positions, to address the stated agenda, is that we feel that because of the way that the Bureau of Indian Affairs administers our programs and because of its seeming inadequacy to run any kind of a program, and also its extremely limited viewpoint of who is eligible for services under the Bureau of Indian Affairs, we have to be directly opposed to the transfer of title 4, Indian education programs to the Bureau of Indian Affairs.

We will continue to make this stand until those issues of who is eligible are cleared up. We feel that the commitment and the responsibility of the U.S. Government is to Indian people, not merely to tribal organizations and to tribal governments; the commitment should be to Indian people. That would cover the people in the urban Indian settings as well as off reservations. That, right now, is the only program that is meeting their needs.

We are also opposed to the transfer of Alaskan Native schools to the State of Alaska. As stated by your committee, the State of Alaska has not even agreed to that transfer and we feel even if they do that the Alaskan Native should have the opportunity for self-determination for them to run their own schools. There should be a guarantee that they will have that opportunity under the State of Alaska.

With regard to boarding school closures, I think that it is fair to say that most of the people that are in the contract school business are also community school oriented. We do not in concept agree with the boarding school but we feel that it is up to the local people to make that determination. The Federal Government should not be the one to make that decision.

We would like to see every Indian child at home with his family and be able to stay in his community. Until the time that it is possible, I think that the communities that have boarding schools or the people who are served by boarding schools should be given the opportunity to decide when they no longer need it. That should not be done in an office in Washington, D.C. They have absolutely no way to determine whether or not that time has been reached.

The Bureau of Indian Affairs reorganization plan totally ignored consultation with Indian tribes and with Indian people. They have been trying to do that as a last ditch effort because of the opposition by congressional people but the plan is alredy formed in their own mind and it is merely an exercise in futility.

They have been trying to get us to talk to our tribe a couple of times but they still have not got around to it. They know and we know that it does not make any difference. They are not going to change it. We are opposed, both the Kickapoo Tribe in Kansas and also the Association of Contract Tribal Schools. It serves no purpose. It certainly will not eliminate any overhead by the Bureau. Anyone who knows the system knows that all of the fat cats in Washington, D.C., who are in the central office are already scurrying to take positions at the newly created offices. Those people will continue to get the same rate of pay.

What will eventually happen through the bumping that goes on in the personnel system of the Goverment is that people at the local level will lose their jobs. It will take four or five GS-5's and GS-7's to lose their jobs to make up for one GS-15 that ends up back on the reservation level.

Again we are going to end up losing services and gain nothing. There is no reason for the reorganization to go through.

We recommend to the committee, and I understand that the committee has already taken a stand, but ask your help in getting other committees and other Senators and so on to support the Johnson-O'Malley eligibility for contract schools. The contract schools depended a lot on those to provide those special programs that we cannot through our regular contract.

We would like to get your support. I know that you already intend to support us on that issue. The ISEP program—the Indian school equalization program or formula, whichever it is referred to. When 95-561 mandated the development of the formula, it also said, and I will quote:

> In establishing such formulas the Secretary shall consider: 1. The number of Indian students served and the size of the school. That has never been done. There is only a dollar figure per student and they do not consider that there are fixed costs that a small school as well as a larger school must contend with.
> 2. Special cost factors such as (a) isolation of the school; (b) need for special staffing, transportation, or educational programs; (c) food and housing costs; (d) overhead costs associated with administering contracted educational functions; and (e) maintenance and repair costs associated with the physical conditions of the education facilities, and
> 3. The cost of providing academic services which are at least equivalent to those provided by the public schools in the state in which the school is located.

The BIA has, as usual, totally ignored all of these things that went along with establishing the formula. They take a good recommendation and turn it into a lousy one. They use this against us now. Most of the community schools are smaller schools. The ISEP formula is weighted heavily in favor of large schools.

What it is going to force us to do is to artificially concentrate students. The only way that we can do that in most Indian communities is to go to a boarding situation. I am opposed to that. Families should stay together and students should stay with their families.

If we are going to survive and the cuts go through, it will mean that we will either have to look at going to drawing in other tribal groups from our area and boarding the students or closing the school; either one of which is not a good option.

We have asked, and I do not know the procedure that well, for the possibility for the committee to look at forming some sort of task force or whatever vehicle would be appropriate to look at this problem. It is getting to us. We have been here before. Other schools have said that the ISEP formula is no good. The Bureau is using it against us to starve us. As soon as we lose the moneys like title 4, JOM—all of those things—we can no longer continue to operate on the formula.

The formula also includes transportation. As people before me have said, it does not begin to cover all of the transportation costs. That is not a problem for most Bureau schools because they do not have transportation; they are boarding students so they do not care. They will not look at it. You tell them that it is not covering the cost and that is tough.

If that would be possible, the Association of Contract Tribal Schools would pledge to work with the committee. We would be glad, at our own expense, to come in. If there is some way that we can get a group of people who have the authority to look at this and change it if necessary, we would do just about anything. We really need it.

There must be a solution to it. If this committee has the clout or the authority to do that, then we ask that you please do so. We will be glad and I am sure other people who are not members of our committee would be glad to do the same.

The next problem that we have encountered in our already thinly spread budget is that we are told that we are not eligible for the

U.S. Department of Agriculture hot lunch program. That program costs even our small school $25,000 a year. We have to feed the children. We recognize that the children have to have lunch. The people of the Kickapoo tribe are hard hit by the Federal budget cuts and cannot pay for those lunches themselves. We have to then take the money from the instructional program.

In a meeting yesterday with a person from the USDA, he said that they are willing to work out a plan. They had a memorandum of agreement from the USDA and the BIA back in 1965 at which time the Bureau said that we were getting money already to feed the students, so it would be double dipping for us to be getting money from the USDA. At that time almost all of their schools were boarding schools.

If you have a boarding situation, as it is now, then you are given the money to feed the children. Most of our schools are day schools. We do not get money to feed the children and yet we still have to feed them at noon. When we get a computer printout of our ISEP allowance, it comes out as: first, instructional program; second, transportation; third, special education services, that is for handicapped children; fourth, operations and maintenance; and fifth, school board training. How can anyone possibly construe that from one of those it would be reasonable that you should take out food costs. I think that the very titles of them indicate that there is no money there.

We must be able to convince the BIA and the USDA that we are not receiving that money. The Bureau has told them that all of our schools are the same whether they be contract or BIA. That is simply not true. There is a vast difference between a boarding school, which gets money through the ISEP formula for boarding that allows for food costs, and day schools. I am assuming that that would be the same difference for the BIA-operated day schools. We need some help along those lines.

I would like to thank the committee very much for giving us an opportunity to speak here. I will run quickly through our recommendations to the committee and these will also be included in our written testimony.

Our first recommendation is continued emphasis on the Federal Government's responsibility for Indian education.

Second, oppose any cuts in Indian education which will seriously affect the quality of education for Indian children. We have already told you that any cuts will do that.

Third, enforcement of the BIA's responsibility for consultation with Indian tribes on the proposed reorganization and to oppose any such plan until this requirement is legitimately met. On that I might add that our tribe, the Kickapoo tribe of Kansas, and our school board are both holding that any dealings with the Bureau's area office is a waste of time and they are officially requesting the Department of the Interior to be able to deal directly with the central office. They are the only decisionmakers, anyway.

Fourth, the formation of a task force, or similar vehicle. That will establish an equitable formula for funding of Bureau and contract schools and meet the requirements of Public Law 95–561.

Fifth, to oppose the transfer of title 4 Indian education programs to the Department of the Interior until such time that the educational needs of all Indian children can be guaranteed.

Sixth, to oppose the transfer of Alaskan Native education programs to the State of Alaska.

Seventh, to assist the contract schools in their efforts to receive funding from the Department of Agriculture for hot lunch programs for our students, and

Eighth, to assist the contract schools in their efforts to regain eligibility for funding under the JOM program.

Thank you very much.

Ms. HUNT. Thank you very much, Mr. O'Neal. Without objection, your statement will be made a part of the record at this point.

[The prepared statement follows:]

PREPARED STATEMENT OF BUTCH O'NEAL, EXECUTIVE DIRECTOR, THE KICKAPOO NATION SCHOOL

Mr. Chairman and Committee Members: My name is Butch O'Neal. I am the Executive Director of the Kickapoo Nation School in Kansas. I am here representing our school and acting as spokesman for the Association of Contract Tribal Schools.

It is my intention to present our view points on the target issues for these hearings.

It is our belief that it is the responsibility of the federal government to educate Indian children. The schools that are currently operating under P.L. 93-638 are operated on the basis of this belief. The past cuts in federal funding for Indian Education have threatened our education programs. The programs are now operating on the bare minimum of funding levels. Any further cuts in Indian Education monies will certainly have a drastic effect on the quality of Indian Education. Cuts in federal funding will mean direct cuts in educational services to Indian children. There is just no way that Indian self determination can become a reality without the freedom of Indian people to educate their children in a manner that meets their special needs. It is the responsibility of the federal government to insure that Indian people are given this opportunity.

The federal responsibility to educate Indian people is, in many instances, entrusted to the Bureau of Indian Affairs, Office of Indian Education Programs. The Bureau of Indian Affairs continues to be the major obstacle to Indian self determination. The BIA discourages, hinders, and at times openly defies attempts of Indian Tribes to contract for services. A prime example of their attitude is one of the latest developments.

A majority of the contracts schools are on the "Letter of Credit" system for obtaining their operating monies. Drawdowns against the letter of credit are made directly to the U.S. Treasury. This results in a turn-around time of approximately 7 days. This allows the schools to avoid cash flow problems. The BIA area finance offices in some areas are attempting to force contract schools to send their drawdown requests to the BIA area finance office for approval before going on to the U.S. Treasury. This would mean a minimum of 3 weeks turn-around time. The estimate of 3 weeks time for the processing of the letter of credit drawdown request is an optimistic one. The BIA finance offices have been known to take 7 or 8 weeks to process the requests. This is obviously another attempt by the BIA to counter Indian self determination.

The BIA has announced that the Tribes and Tribal organizations that contract programs will receive only 85 percent of their indirect/contract support monies. This places the Tribes in a situation of not being able to meet their obligations for administrative costs. They did, however exempt themselves from this shortfall in contract support monies. Any expense incurred by the BIA due to a program being contracted will be paid 100 percent as opposed to tribes 85 percent!

The BIA's latest charade is the proposed reorganization which will include the Office of Indian Education Programs. The stated purpose of the plan is to cut down on BIA overhead and to decentralize the BIA programs. In actuality the reorganization plan will centralize the programs. There will be more physical distance between programs and the BIA as well as a new layer of Bureaucrats to deal with. The BIA attempted to push the reorganization plan through without consultation with Indian Tribes and, obviously, without adequate planning. The BIA must be forced to comply with federal law and regulations regarding Tribal consultation.

The Indian School Equalization Program, has been in the past and continues to be, the contract schools major problem. The ISEP formula was mandated by P.L. 95-561 Sec. 1128(a). The Law clearly mandated the establishment of a formula for determining the minimum annual amount of funds necessary to sustain each Bureau or contract school. In establishing such formula, the Secretary shall consider—

1. The number of Indian students served and size of the school;
2. Special cost factors, such as—
   - (A) isolation of the school;
   - (B) need for special staffing, transportation, or educational programs;
   - (C) food and housing costs;
   - (D) overhead costs associated with administering contracted educational functions; and
   - (E) maintenance and repair costs associated with the physical condition of the educational facilities;
3. The cost of providing academic services which are at least equivalent to those provided by public schools in the state in which the school is located;
4. The cost of bringing the school up to the level of the standards established under sections 1121 and 1122; and
5. Such other relevant factors as the Secretary determines are appropriate.

When the formula was established these special cost factors were completely forgotten. These factors were to be included to insure adequate funding for all programs under the formula but they were never given consideration. The ISEP formula, as it now stands, is weighted in favor of large numbers of students. Most communities on Indian Reservations are small and have small schools. This formula encourages the concentration of students in large schools. The only way possible to do this in most cases, is to put students in boarding schools. Because we know that the BIA will never correct this problem we must recommend that Congress form a task force, or similar vehicle, that will establish a formula as was originally called for. The contract schools should be adequately represented on such a task force and be given the opportunity for meaningful input.

Because of the BIA's attitude toward education, its attitude toward service to non-reservation Indian people, and its lack of commitment to Indian Self Determination; the Association must take a stand against the consolidation of Indian Education programs. The Association of Contract Tribal Schools believes that the Federal responsibility for education is to Indian people, not just Indian tribes. The Association of Contract Tribal Schools can not at this time support the transfer of title IV Indian Education programs to the Department of the Interior.

The Association of Contract Tribal Schools strongly opposes the proposed transfer of Alaskan Native Education programs to the State of Alaska. The Alaskan Native people must be allowed to control the education of their children.

The Association of Contract Tribal Schools wishes to express our sincere gratitude for the Senate Select Committee on Indian Affairs efforts in behalf of the Contract Schools. Our recommendation for the committee's consideration are as follows:

Continued emphasis on the Federal Government's responsibility for Indian Education.

To oppose any cuts in Indian Education which will seriously affect the quality of Education for Indian Children.

To enforce the BIA's responsibility for consultation with Indian Tribes on the proposed reorganization and to oppose any such plan until this requirement is legitimately met.

To form a task force, or similar vehicle, that will establish an equitable formula for funding of Bureau and Contract schools and meet the requirements of Public Law 95-561.

To oppose the transfer of title IV Indian Education programs to the Department of Interior until such time that the educational needs of all Indian children can be guaranteed.

To oppose the transfer of Alaskan Native Education Programs to the State of Alaska.

To assist the Contract Schools in the efforts to receive funding from the Department of Agriculture for Hot Lunch Programs for our students.

To assist the Contract Schools in their efforts to regain eligibility for funding under the J.O.M. program.

Ms. HUNT. If we could take the other witnesses from contract schools we can have some questions. After that we can take the survival schools and have questions. I think if we can get the perspective of the two other contract schools we have here and have some general questions it would work out better. Darlene Graham, would you please proceed.

STATEMENT OF DARLENE GRAHAM, CHAIRPERSON, DUCKWATER SHOSHONE SCHOOL BOARD AND SECRETARY OF THE DUCKWATER TRIBAL COUNCIL

Ms. GRAHAM. My name is Darlene Graham and I am the chairperson of the Duckwater Shoshone School Board and the secretary of the Duckwater Tribal Council. I am speaking on behalf of both organizations. We would have sent more representatives to this hearing but the cost of travel makes it virtually impossible. We are a small tribe with no adequate means of tribal income or resources.

The Duckwater Shoshone Elementary School is a small contract school controlled and operated by the Duckwater Shoshone Tribe. Our student enrollment is 35, including preschoolers through the eighth grade.

For a long time it has been our desire to see our children receive wider educational experience by giving them not only better education, but also a better image of themselves as Native Americans. When it appeared evident that the goal was not being realized in the local school system that existed in Duckwater, we decided to pursue other avenues to see what could be done.

We began our school in 1973 mainly because the public school system was simply not meeting the unique needs of our Shoshone children. Our efforts to deal with the public school system were ignored although our requests were fair. The students were being passed from the public elementary school to high school. Many of them were performing three to five grade levels below their peers. The dropout rate for our high school students far exceeded the national norms. The parents of our reservation felt strongly that education is a key that will unlock the door to self-sufficiency.

We agree with the President that Federal spending must be curtailed but we disagree that the educational programs be reduced. The proposed cuts come at a time when many tribes and tribal organizations are at the brink of attaining their stated long-range goals and objectives.

The proposed closure of off-reservation, Bureau of Indian Affairs operated boarding schools will have many far-reaching effects on the educational opportunities of Indian students.

Many students from the State of Nevada have attended and graduated from these boarding schools. To many that are going on to high school from the isolated reservations, a boarding school has been their only recourse. Otherwise they must commute many miles to and from public schools or relocate entirely. This is usually a great expense which many people are not able to afford.

Many of us feel that the BIA has numerous other areas within their budget that could be eliminated or cut. Education is our key to coping with this changing country. Most importantly we feel that the closure of BIA schools and reduction in educational services and programs is in direct violation of rights guaranteed by the Federal Government through treaty agreements with most of the tribes.

The BIA has long been noted for the inability to deal with tribes and tribal organizations in delivery of services.

It is our belief that if the transfer occurs, title 4 will be swallowed up in the bureaucratic maze of redtape and will never reach our students at Duckwater.

Our tribe and our school depend heavily on Federal assistance for its very existence. We are pleading with your sense of good and fair judgment in the treatment of all U.S. citizens to continue that much needed educational assistance program.

I have attached to my written statement letters written by students attending the Duckwater Shoshone Elementary School. On behalf of the Duckwater Shoshone Tribe, thank you for the opportunity to be heard here today.

Ms. HUNT. Thank you very much, Ms. Graham. Without objection, the attachments to your statement will be made a part of the record at this point.

[The attachments follow. Testimony resumes on p. 198.]

PO: Box 38
Duckwater Nevada 89314
April 6, 1982

The Honorable Mark Andrews
Senate Interior Committee
Washington, DC. 20510

Dear Senator Andrews

I'm a 4th grader at Duckwater Shoshone Elementar School. I have been here for 2 years. I hope that the school will not close down because they just built a new school. I want to go to school in the new building. If the budget gets cut, we will not be able to go to school in the new school building. And we need Title IV and Title I, Title VII. We would like to go on a field trip.

I hope you and the other people will not cut budgets. We need Title VII because we want to learn Shoshone language and Terry Tofoya. and other people like him come to help us. Please Don't Cut Our Budget

yours
truly,
Robin Dyer

P.O. Box 57
Duckwater,
Nevada 89314
April 6, 1982

Dear Senator Rudman:

I'am an 8th grade student at the Duckwater Shoshone Elementary School.

If you cut our budget, we will not have a school and Title I, IV and Title VII at all. If we don't get the money, the school will close down. We would have to go to another school and we wouldnot be happy there at all. We are happy here. Title I gives us extra halp with reading, math and langnge arts.

Title VII helps us learn to speak the Shoshone langnage and make Indian crafts. P.S. Please think about us when you have your hearings.

Sincenely
Kenneth C. Graham

P.O. Box 38
Duckwater Nv. 89314
April 6, 1982.

The Honorable Quientin N. Burdick
Senate Interior Committee
Washington, D.C. 20510

Dear Senator Burdick

Iam a Instructional Aide at the Duckwater Shoshone Elementary School. We are again being threatened by Budget Cuts of our Title I, Title IV and Title VII programs. With Out these funds we can not operate as a school. I personally don't see why you have to Cut Educational funds. Why not just Cut defense spending. We don't need any more weapons for war. Don't we have enough to end Civilization as we know it. Why not use these monies for furthering and bettering the education of our children instead of ending it.

Thank You
Keith Honaker

P.O. BOX 38
DuckWater Nevada 89314
April 6, 1982

The Honorable Thad Cochran
Senate Interior Communitee
Washington, DC. 20510

Dear Senate Cochran:

I am a sixth grader at DuckWater Shoshone Elementry School. I've attened this schol for about 1 year now and I like the people that come here. like Donny Millet and Terry Tafoya and some other people that come here to visit us, I hope the school ~~dosent~~ doesn't close down becouse of the budget cuts.

Sincerly,
Jesse Buckner

P.O. Box 75
Duckwater Nev 89314
april 6, 1982

The Honorable Dennis Deconcini
Senate Interior Committee
Washington, DC 20510

Dear Senator Deconcini:

Im a student in the Duckwater Shoshone School and I like it. ive learned alot here and if you cut the budget I would have to go to the other school. The other school doesnt get the things that we get. We have a new school thats going to get built. If you cut it we wont beable to use it. This school has many things that we learn. If you cut title VII we wont learn how to talk our Shoshone language. We would like to learn.

Sincerly yours
Joanne R. Lenbek

P.O. Box 38
Duckwater, Nevada 89314
April 6, 1982

The Honorable Paul Laxalt
Senate Interior Committie
Washington, DC 20510

Dear Senator Laxalt

I an a fifth grader, I have lots of Learning experiencer from Title I, So I hope you dont close the school down. We have a new school building for new years we don't want it standing there all done becaus of the Budget cuts Title VII is fun and I am Learning ShoShone from Ramy Millet. He is a nice person and I want him to teach us shone

Sincerely Drey Romero

P.O Box 38
Duckwater- NV 89314
April 6, 1982

The Honorable Ted Stevens
Senate Interior Committee
Washington, DC 20510

Dear Senator Stevens:

I am a sixth grader at the Duckwater Shoshone Elementary School I have attended this school for 6 years. I hope our school does not close because of budget cuts. We have a new school that is being build and many kids are waiting to go school in it. We have Title I and Title IV and Title VII and they help kids alot in school. I hope our school stays open

Sincerely
lorrinda Sam

P.O. Box 38
Duckwater, Nevada 89314
April 6, 1982

the Honorable Walter Huddleston
Senate Interior Committee
Washington, D.C 20510

Dear Senator Huddleston

I Am An 8th Grader At Duckwater Soshone Elemtary School, I Just wrote to tell you About All the cuts Your making, before you made the cuts, It was Fun learning the Indian language From title $\overset{?}{\text{IV}}$ And All the stuff in it. IF you make the cuts, there wont be Any language to learn, Also Title IV pays For textbooks, lights, heating And Salaries (Ect) Our new School building is Almost Finishid, IF we dont have Any Funds. We wont get to use the School building.

I hope You change Your mind About Cutting these Funds

Sincerly
Scott Trujillo

P.O. Box 75
Duckwater, Nevada
April 7, 1982 89314

The Honorable Jake Garn
Senate Interior Committee
Washington D.C. 20510

Dear Senator Jake Garn

I am an 8th grade student at the Duckwater Shoshone Elementary school.

If you cut down on Title VII funds, we will never learn how to speak Shoshone, and if we don't know how to speak the Shoshone language, we can't pass it on to our children. We will lose it, and we will never learn about the Indians ways.

If you cut Title IV, The grade school kids will need things like paper, pencils, teachers, books and a cook. I think they should have a chance to go to school and get a good education.

So please don't cut our Title VII and Title IV funds

Sincarly
Donna Lenbek

P.O Box 8
DuckWater Nevada,
89314

The Honorable Robert C. Byrd
Senate Interior Committee
Washington, D C. 20510

Dear Senator Robert C. Byrd:

I'm an eighth grader at the DuckWater Shoshone Elementary School. I'm 13 years old. I do not want our school to close. There is a brand new building that they're building and if you close it no one will be using it. I've been going to school here ever since it's been open. The Title VII program is very good. Everyone likes it. Terry Tofaya comes out every month and teaches us songs and tells us stories. He even teaches us how to make drums. Danny Millet comes over and teaches us how to talk in our language and shows us how to play handgames and how to do the two-step dance. Danny Millet is an elder in our commitity. If Mr Reagan cuts the budgets, Danny and Terry and Mitcheel won't be able to come to our school and teach us about our heritage. Mitcheel teaches the younger kids easier words than Danny teaches us.

Title I is a very great program. Even though I don't go, my freinds go and they really like it. It helps them alot. If we don't get Title I, the kids that want the education they need won't get it. If you cut the budget for Title IV program, Some people won't get the education they want. Title IV program lets us get paper and pencils and new tex books We all like our teachers and our aides. If you cut the budget for IV, we all will have to go to the public ~~Shreet~~ chool down the road. Nobody wants to go to that school. We all like to go on ~~feild~~ field trips. We see things we've never seen before. We live on a little resevation. Please help us if you can.

Sincerely,
Alfreda Mae Walker

P.O Box 38
Duckwater, NV 89314
April 8, 1982

The Honorable Dale Bumpers
Senate Interior Committee
Washington, D.C. 20510

Dear Senator Bumpers:

I am the 4th-8th grade teacher at the Duckwater Shoshone Elementary School. We live on a small reservation in central Nevada. Our school depends on Federal money for its very existence. I understand that cuts must be made in the Federal budget. However, cutting funds for education seems shortsighted.

It would not be bragging to say that our school is excellent. The staff, parents and community all care deeply about education, and work hard to see that each child's needs are met. We teach the standard elementary school subjects very well, and also teach Indian language and culture (the result of a Title VII grant.) Ours is the first school in the United States to have such a program.

I know it's easy to be wasteful spending someone else's (i.e. the government's) money, but this is not the case here. The people here abhor waste.

We do not yet have sufficient resources within our community to support the school ourselves.

We still need help from the government. Without a good education, the generation growing up now cannot fulfil its potential and attain the goal of community self-sufficiency.

I urge you, Senator Bumpers, to consider the long-range implications of cutting funds to education.

Sincerely,

Delvin E. Segall

Ms. Hunt. Roleen Hargrove, the vice chairperson of the Tribal Council of the Pyallup Tribe accompanied by Trish Geringer, superintendent of the school system, Puyallup. Would you please proceed, Ms. Hargrove?

STATEMENT OF ROLEEN HARGROVE, VICE CHAIRPERSON OF THE TRIBAL COUNCIL OF THE PUYALLUP TRIBE; ACCOMPANIED BY TRISH GERINGER, SUPERINTENDENT OF THE PUYALLUP SCHOOL SYSTEM

Ms. Hargrove. Thank you Ms. Hunt for providing us an opportunity to present to the committee a very serious problem that we are currently dealing with.

The Puyallup Tribe has a 93–638 contract with the Bureau to provide a school system for the Indians within our area.

Approximately 1 year ago the Puyallup Tribal Council had requested that an audit be done on our accounting system. The result being a 5-month audit being done by the Inspector General's Office of the Department of Interior.

The tribe received, in February of this year, a preliminary audit identifying that they were recommending to the Bureau of Indian Affairs that the Puyallup Tribal school system be closed down at the end of this current fiscal year. That would be October 1982.

I would like to quote from that preliminary response.

> In view of the excess costs, the questionable effectiveness of the school system and the potential decreases in available funding, we are recommending that the BIA discontinue funding the Puyallup School System after completion of the current 1981–82 school year thus necessitating the transfer of the responsibility for education of the students in the system to local school districts.

It is very apparent that the auditors involved in this audit do not know the regulations of 638. We were not even aware that an audit was being done until we received the primary audit in early February of this year.

The audit came about rather superficially. The gentleman that had conducted the audit team had gone through our school system, had taken an approximate 5-minute tour, and was able to come up with these findings. It is totally incredible that something like that could come about.

As a result of that the tribe did respond. We were instructed by the Inspector General's office not to be sharing the information because it was confidential. There were no copies made of the audit at that time. We had a 150-page response from our students, parents, staff, community people—everyone in total support of continuing that school system. They have no basis for claiming that the school needs to be closed down.

To go further, the tribal council had wanted to deal with this issue internally and work with the Bureau in wanting to rectify the situation. That is part of what prompted our trip here to Washington, D.C., today.

The council had, last Thursday, learned that the final audit had been completed. We have been requesting that information over the last 3 months. Last Thursday we had a local reporter that came into the tribe to do a story on our tribal school system. He claimed that they had a copy of the audit.

The council assumed at that point that that person had a copy of the preliminary audit. They found out when they arrived that they had a copy of the final audit on the school that they had received from the Inspector General's Office. The tribe did not have a copy of the final audit. We do not yet have an official copy. We had gotten our copy through the reporter that came to the tribe.

Yesterday we learned that there have been statements made by Bureau officials that—they have been using us as an example of a poor school system. We feel that that person did not have accurate information to back up such statements.

I also want the superintendent to clarify more of the specific issues so what I will do is to turn it over to her.

Ms. **Geringer.** We have a stable teaching staff. In the past 3 years, of our 15 teachers, we have had only 3 new teachers. In addition to the stable staff—by the way, all of those teachers this year have submitted letters of intent and very much want to come back to the school system.

In addition to a stable staff, we have excellent community involvement; in fact, it has grown significantly. Our latest dinner that we had for the parents to explain the curriculum that we were planning to implement and to get input as to the direction of the school system, was a huge success; we had over 145 parents show up for this meeting.

We have had fundraising events and active parent and community support. We have a curriculum that we have developed that not only meets State standards, but in some respects, passes the public schools and it definitely surpasses the public schools in terms of being relevant with respect to Native American people.

We have some of the same problems that other contract schools have. We are concerned about the lack of USDA money. We do not receive funds from the Bureau to feed our children. For many of our children, the lunch program and the breakfast program that they received through USDA was their only meal. They did not get a meal at home. Ninety to ninety-five percent of our children are eligible for free lunches. The remaining percentage are eligible for reduced lunches.

We are concerned, as with other contract schools, about the lack of JOM money. That was an important cultural addition to our academic program.

With respect to the equalization formula, we do not get sufficient transportation money; it has fixed costs that are not taken into consideration. High schools cost more to run than elementary schools. Small schools are more costly to run than larger schools. None of these things is taken into consideration.

With all of these concerns and with a sound education system, the last thing that we expected was a programmatic audit when a fiscal audit had been requested—an audit response that indicated a closure of our school system.

Our school is in a transition phase. Not only are we educating students at the high school level that have previously dropped out or failed or that have been kicked out of the public schools, but we are now realizing a change in the program where our elementary students are finally filtering through our elementary school into our high school.

It is more than an alternative school. We are needing to meet the needs of students that are at grade level or above grade level according to standardized testing and we are attempting to meet the needs of students who have every intent to go on to higher education.

The audit report does not look at any long-range goals. It does not look at our system in any indepth type of approach. As Roleen said, they took a 5-minute walking tour of our school system. The draft report came out February 1 and we responded immediately. The BIA area office responded immediately and sent their response through Bureau channels to central office.

About a week and a half ago I received a telephone call from central office requesting some additional information so that it could be included on a draft response to the draft audit. I questioned why it had taken nearly 3 months to respond to this draft audit. I was told that it had been passed around and shuffled in central office.

We then realized from the reporter of the Seattle Times newspaper that a final audit had been issued by the Inspector General's office. This obviously did not include the BIA response because the BIA had not responded. It has totally disregarded our response which was a very lengthy and detailed response.

We later learned that central office BIA—we phoned the person in charge of responding to the draft audit and they were not only aware that a final audit had been issued 1½ months prior to this time, but also was unaware that there was a deadline date in responding which was March 1 for the draft audit. The deadline date for taking action to the response of the final audit was April 30.

We have tracked down who was responding to this final audit and found out that our response was going to be responded to with a report that was prepared to the draft audit. This is in the final stages of being drafted. It still is not a final report from the Bureau of Indian Affairs. If it is signed by the Assistant Secretary of the Interior it will become a final response. Finally after 3½ months a four-page response will come from the Bureau of Indian Affairs.

This has totally disregarded our response, the area office's response, which regularly visits our school system. In fact we were told that our response did not matter at all and was not even seen by Ken Smith or the upper people in the Bureau, or within the Interior. The process of supplying our response is not only important to you, but to some of the other people that will be making the decisions about our school system.

I think it is incredible that after 3½ months a 4-page response is submitted from the Bureau of Indian Affairs. It is very distressing that our response is not being considered. It is very distressing that the BIA area office response has not been seen by many people, but also is getting very little consideration.

Two hundred and twenty Indian children are in danger of losing their school system. It is a system that is actively supported by the community and that is vitally needed. The types of responses and information that are given from the audit report is riddled with inaccuracies and false statements and misunderstandings. An example is that the audit report has indicated a $6,000 to $9,000 spending per student.

The central office BIA computed this year's funding and computed our expense per student as being $3,044. These figures compare favorably with the Bureau of Indian Affairs. In fact, it exceeds the Bureau of Indian Affairs when—let me quote it here, it says:

> Additionally the Bureau's average cost of $3,000 per student does not include supplemental funds a school may receive.

If these funds were deleted from Puyallup's total amount the actual cost per eligible student would be only $2,615. That is nearly $500 less per student than what the Bureau of Indian Affairs spends.

The Inspector General's auditor, when computing his $6,000 to $9,000 figure at the time computed in addition to our basic cost a title 4 startup grant that we had received to start up our school system. It was a one-time shot. It is like saying here is the public school opening their doors for the first time. What do you need to open your doors, like a one-time expense? This was included and incorporated into the auditor's costs as well as supplemental funds such as title 1 which was included into the per pupil cost.

This type of computation is totally misleading and is inaccurate. Their response was 16 or 17 pages long. What I have just talked about is merely 1 page of 16 or 17 pages of misinformation.

Thank you for this opportunity.

Ms. HARGROVE. In closing I would just like to add that we have included for the record a copy of our response and attached to a written statement, the article that came out as a result of that reporter coming through the school and actually seeing what we were about. It is very favorable. We wanted to share this because we do not want this happening to, not only our school, but other contract schools as well.

If they can so easily make that type of recommendation without actually getting the facts, they can do the same elsewhere.

Thank you.

Ms. HUNT. Thank you very much, Ms. Hargrove. Without objection, your statement and related materials will be made a part of the record at this point. Also to be inserted at this point is a resolution of the Kickapoo Nation.

[The prepared statement and pertinent materials along with a resolution of the Kickapoo Nation School Board, KNS-004 follows. Testimony resumes on p. 243.]

Puyallup Nation
MEDICINE CREEK TREATY NATION

Tribal Council

Bill Sterud
Acting
Chairman

[illegible] Hargrove
Acting Vice
Chairperson

Robert C. [illegible]
Councilman

220 Indian Children Need Your Assistance

The Puyallup Tribe of Indian's sovereign right to self-government is in the process of being violated.

In the spring of 1981, the Puyallup Tribe, through the Bureau of Indian Affairs, requested a fiscal audit of Tribal contracts and grants. On February 1st, the results of 5 months auditing by the Inspector General's Office were presented in a slim 15 page draft report recommending closure of our 638 contract school system. Unbeknown to B.I.A. Area/Agency Offices or the Tribe, a programmatic audit had been conducted in addition to or in lieu of a fiscal audit. The programmatic draft report is riddled with inaccuracies and assumptions resulting from an extremely superficial review of the school system.

The Inspector General invited the Puyallup Tribe and the Bureau of Indian Affairs to respond to the draft report by March 1st. The Puyallup Tribe responded immediately taking categorical exception to each point in the report thus refuting the claim that the school system is "unnecessary and uneconomical". Although the B.I.A. Portland Area Office responded promptly to the B.I.A. Central Office, the B.I.A. Central Office did not respond to the Inspector General's draft report. (Area Office's response is in total support of the school system).

Consequently, the Inspector General issued a final audit report on March 31st, without B.I.A. input, calling for closure of the school system. The Puyallup Tribe's detailed response was totally disregarded.

The Inspector General's final report requests an action response by April 30th regarding the recommendation to close the school system. On May 14th, tribal officials learned that B.I.A. Central Office personnel assigned the responsibility of responding to this audit report "are still working on a response to the draft report" and are "unaware of any deadline dates or issuance of a final audit report".

On May 17th, 3½ months after an initial response was requested by the Inspector General, B.I.A. Central Office staff completed a 4 page draft response. (The draft has not been reviewed by the Assistant Secretary of Interior's Office - the final step in the review process). The response supports retention of the school system.

It is distressing that the detailed Tribal response and the B.I.A. Area response have not been included in the Central Office response nor have these responses been given to Mr. Ken Smith or Mr. John Fritz in order to provide them with accurate information regarding our school system and placing the audit report into a proper perspective.

220 Indian children are in danger of loosing their schools as a result of a poorly conducted programmatic audit, the Inspector General's determination to disregard the Tribe's categorical response, and B.I.A. inaction. Please assist the Puyallup Tribe in maintaining its sovereign right to self-government.

2002 East 28th Street • Tacoma, Washington 98404 • 206/597-6200

Seattle Times
"Front Page"

Cole Porter / Seattle Times

David Bean, 13, is one of five students in a junior-high social-studies class at Chief Leschi school. He says he likes Chief Leschi "because it teaches you about the Indian culture and all that."

Tribe rallies for Chief Leschi school

by Carey Quan Gelernter
Times staff reporter

PUYALLUP NATION CENTER — When the Puyallup Indians asked the federal government to audit their books last year, the last thing they expected was that auditors would try to close their prized schools to save money.

But that is exactly what happened.

In February, the Inspector General's office — federal watchdogs charged with digging out waste and corruption — labeled the Chief Leschi preschool, elementary and junior high/high school "unnecessary and uneconomical."

The report concluded that the government could and should save about $1 million a year by sending Chief Leschi's 220 students to the Tacoma Public School system.

Auditors said the schools on Puyallup tribal land north of Tacoma had an 88 percent dropout rate and meager course offerings, and that many of the students weren't Indians.

Recently, the tribe has gotten an insider's assurance that the Bureau of Indian Affairs, which has the final word, is not buying the report's conclusion.

But when the tribe was presented with the findings three months ago in a slim 15-page report, it was flabbergasted. It moved quickly to assemble a rebuttal, including 150 protest letters, mostly from parents and students.

Parents wrote that their children had languished at public school, hated their school work, that their heritage was mocked, the public-school teachers didn't care.

The same children, they said, were taking a lively interest in their studies at Chief Leschi, and their grades had vastly improved.

Some parents recalled their own past in public school. "Not one day was I ever happy or ever encouraged by a teacher or counselor . . . ," wrote one.

Both students and parents talked about the importance of learning about Native American ways.

"An occasional cultural class in public school cannot instill the sense of pride and heritage that the children are getting at Chief Leschi," a parent wrote.

Verna Harris, 16, school president, said she was speaking for the entire student body: "In the public schools, we are only numbers, we are scheduled for failure and teachers treat us as dumb Indians and all other negative stereotypes.

"In our school, Chief Leschi, we achieve, we graduate, we have role models to follow . . . ."

Verna's mother, Vera Harris, who makes tacos weekly at the school to raise money for making Indian costumes for the students, said only one of her six sons who attended Bainbridge Island public schools graduated.

"Even though it was a really good school, they couldn't make it," Mrs. Harris said.

The school, which originated in the early '70s as a volunteer project to help teen-aged Indian dropouts, expanded to a full-fledged accredited system after the 1975 Indian Self-Determination Act. The act called for tribes to be allowed to administer their own programs.

There was no clue the school system ever was threatened until

See **CHIEF LESHI** on A 8

A 6 The Seattle Times Saturday, May 15, 1982

Parents argue for Indian school

CHIEF LESHI

continued from Page 1

the Inspector General's report.

School Supt. Patricia Geringer, a non-Indian, calls the entire episode "absolutely incredible and quite baffling."

Van Peters, area education program administrator for the BIA, said she felt the report was one-sided.

The auditors paid the school only a 5-minute visit and talked to no administrators, parents or students, Geringer said. The statistics, she contends, are almost all inaccurate.

And, said Ramona Bennett, former school-board member and council chairman, "Our school system is very young — just now, our first children who have continuously been with our program are entering the seventh grade. Our school system has not had a chance to show its stuff."

Council member Roleen Hargrove said the tribe had asked the Bureau of Indian Affairs for an audit, to straighten the books back to 1977.

For some time, many tribal members had been concerned about where the money was going. An audit of the tribal health clinic had been undertaken by a separate federal agency, and turned up what auditors said was embezzlement by the now-deposed tribal chairman, Robert Satiacum, a council member, Silas Cross, and a former clinic director.

(Satiacum and Cross, who face a trial on the charges, say they are innocent.)

The Inspector General, which does audits for the BIA, still hasn't presented the final fiscal audit for the tribe, but Hargrove says it only goes back to 1980.

Gerald Hicks, regional audit manager in Sacramento, said the auditors took on the schools because they represented a large chunk of federal funds — $3 million in 1980 and 1981 — and thus were part of the financial picture of the tribe.

He said auditors made no real attempt to look at the quality of education, but primarily considered the financial impact.

A spokesman for the BIA in Washington, D.C., said its response to the Inspector General will be ready any day.

Yesterday, Hargrove said she talked to a top bureaucrat in Washington, D.C., and was told the bureau is siding with the tribe.

Hargrove said she is relieved, but is not going to let matters rest. She and Geringer plan to leave Monday to talk to bureau officials and congressmen in the nation's capital.

Hargrove says they want some answers about how the report came about and whether they have to worry about future attacks on the school.

Both the tribal school system and bureau officials in Portland and Everett question the Inspector General's figures that showed Chief Leschi costing $6,000 more per pupil in 1981 than Tacoma public schools.

Geringer and the bureau said the inspector's office used the wrong calculations. Actually, the superintendent says, Chief Leschi's costs were about $3,300. The Inspector General listed the Tacoma public schools' cost at $3,000 per student, although the tribe and BIA believe that figure is too low.

The dropout figures were similarly misleading, said Geringer. The majority of the tribal school high schoolers are dropouts from public schools, she said, and so might be expected to have a higher dropout rate.

Her study showed that of 115 high-schoolers who enrolled in 1981, 75 could be considered dropouts, since they left for more than 14 days. But, she said, 72 percent of the "dropouts" returned to school after absences.

She says the Tacoma and Clover Park School District dropout rates for Indian children is 24 to 25 percent. A Tacoma school spokesman says, however, that the figure is somewhat uncertain because of some of the same limitations Geringer mentions in calculating the Chief Leschi rate.

As for limited course offerings, she said, the school is accredited by the state of Washington. Also, she said, it offers individualized instruction.

The Chief Leschi students, she noted, are given standard achieve-

Cole Porter / Seattle Times

A student in Chief Leschi's combined second- and third-grade class beats a drum and sings an Indian song along with classmates.

ment tests every year, and on the average, students advance one year for each year of schooling.

She questioned the Inspector General's complaint that some students are not Indian. About 15 percent of the students can't meet the federal rules for proving they are one-quarter Indian, she said.

But, she said, the school accepts those who consider themselves Indian because proving it can be difficult. Sometimes adoption records are incomplete, Canadian Indians aren't eligible, and some children are from tribes not federally recognized, for example.

In visiting for the day at the schools in the former Cascadia Diagnostic Center, it's hard to find a student or a teacher who isn't enthusiastic about them.

No discipline problems are apparent, although the teachers say they have them occasionally. In the older grades, classes often have only five or ten students. The elementary school is more crowded, with a ratio of about 1 teacher for 24 students.

Asked what they like most about the school, the students usually say that the teachers care.

Ninth-grader Jeff Berys says he was threatened with swats when he got stuck on math problems at a public junior high.

"I'd try to get help, but there were too many kids," he says. "Here, they sit down and help you."

The teachers and administrators talk about the prejudices against Indian children in public schools — the assumptions that they cannot achieve.

Susan Goss, a Native American teacher at Chief Leschi, said part of the problem is that most teachers don't understand the children's cultural background.

While most of the Chief Leschi teachers are white, they are given sensitivity training and carefully screened, Geringer said.

Part of the success of the school is also attributed to greater involvement by the parents.

And if nothing else, the bureaucrats making the decisions about Chief Leschi will have one last reason to hesitate before closing the schools.

One young student, in an unsigned letter made part of the tribe's rebuttal package, warned that he didn't want to be too "mean," but "If you Close Down Chief Leschi We will Hate you for Life."

UNITED STATES GOVERNMENT

memorandum

DATE: February 25, 1982

REPLY TO ATTN OF: Portland Area Office
Office of Education

SUBJECT: Response to OIG Draft Audit Report, "Review of Puyallup Tribal School System, (#W-IA-BIA-04-81 [B])

TO: Acting Assitant Director, OIEP
ATTN: Dr. James Martin

The attached information is submitted in compliance with your request for Area comments to the above referenced audit report. This review began some months ago at the request of the Portland Area Office to review the Puyallup Tribal Contracts.

At the outset, the auditor did not present a review plan before conducting the programmatic evaluation. It was not until near the completion of the evaluation, that the auditor visited this office seeking information on the Tribal school system. Even at this time no mention was made of a program evaluation being in progress.

Please advise if further clarification or information is desired.

Van A. Peters
Van A. Peters
Area Education
Program Administrator

Attachments

OPTIONAL FORM NO. 10
(REV. 1-80)
GSA FPMR (41 CFR) 101-11.6
5010-114
☆ GPO : 1981 O - 361-526 [illegible]

Response To The Review Of Draft Audit Report
"Review Of Puyallup Tribal School System"
W-IA-BIA-04-81

Recommendation:

We recommend that BIA discontinue funding the Puyallup school system after completion of the current 1981-82 school year, thus necessitating the transfer of the responsibility for education of the students in the system to local school districts.

Response:

Program analysis is designed to explore issues in depth, actually collecting data that are accurate, relevant and reasonably complete. This program audit was conducted without informing the tribe, school officials, and responsible Bureau officials that such a program evaluation was taking place. Data was selectively and superfically collected as indicated by school officials. The evaluator spent very little time within the school. Little or no response was solicited from students, staff, parents or tribal officials concerning their feelings about the impact of the school on them and their community. Reliance on this "soft" data invites charges of bias and impressionism. It is a mistake to measure only a few outcomes as if the program and its goals were uniform, well defined and unchanged from the original conceptions. This tribal school is an innovative, exploratory, alternative school, characterized by changing program activies. Documenting the evolution and changing impact of such a program would provide more useful information.

To infer that the public school system can do the job of educating Native American students better than tribal government is a predisposition on the part of the evaluator. The Portland Area Office of Education does not agree with the audit report recommendation based on the conceptual framework of this evaluation.

Comment:

One of the objectives of the Tribal Education system was to reduce the dropout rate of Indian students. However, in the periods from April 1979 to November 1981, the dropout rate for Tribal high school students was at least 73 percent. From the class of 1982 the rate was 88 percent. In April 1979, 42 students were enrolled who where due to graduate in 1980, 1981, 1982. Of the 42 students, 17 were freshmen due to graduate in 1982. But by November 1981, only 9 of the 42 had graduated, and only 2 of 17 due to graduate in 1982 were still enrolled.

Response:

Evaluating goal related results provides valuable data on program operations and other program achievements. Such study requires an idea of program goals, standards of comparison and measures success in achieving them, and specific indicators to evidence the level of goal achievement. The audit identifies only one objective of several that the Puyallup Tribe has committed themselves to. An indepth survey as to the reasons for the high dropout rate was not undertaken. Most of the students are products of the Public School system that failed to meet their educational needs. Thirteen of the students dropped due to court action, child custody changes, foster placement, or juvenile court action. Because of school policy, if a student is absent 14 consecutive days, they are dropped from the rolls. A number of the dropped students were re-enrolled. Several students were 18 years or older and were encouraged to take the G.E.D. examination. Those that were successful also were dropped from the attendance rolls. Another major cause of student dropout is the migratory nature of Indian families in search of employment.

Some of the dropouts listed may not necessarily have left school. They have, however, left the tribal school system.

In comparison, the Tacoma Public School System also has a high dropout rate as indicated.

Tacoma Public Schools
Senior High School Dropouts

Student Tally By Sex And Ethnic Distribution

September - June, 1980-81

	Number of Dropouts	Percentage of Total Dropouts
Male	405	52.4
Female	368	47.6
TOTAL	773	100.0

	Number of Dropouts	Percentage of Total Dropouts	10/1/80 Total Enrollment In Terms of Ethnic Percentages
Asian	35	4.6	4.5
Black	102	13.3	15.0
Indian	40	5.2	2.7
Caucasian	580	75.8	76.9
Hispanic	8	1.1	1.0
TOTAL	765*	100.0	

*Note: The computer run for this tally was on 6/16/81 and, therefore, the total of 765 differs slightly from the 6/9/81 run which had a total of 773.

Indian students have a higher dropout rate in comparison to percentage of total population.

Other Tribal goals relate to improving daily attendance, minimizing the delinquency level of Indian students, promoting the understanding and continuance of the cultural heritage, and to provide the basic academic needs of their students. These goals were not investigated.

Program indicators in these areas demonstrate that the school had produced its intended effects. The audit overlooked important results and did not include those goals that the tribe believes are crucial.

Comment:

Federal Regulations, 25 CFR 31a.4(d), provide that the education function will be "...structure in such a manner that all matters relating to the operations of education program be administered by or be under the direction of education personnel." But the school board at Puyallup is the Tribal Council, a political entity. The educators responsible for running the schools were changed continually by the council.

Response:

Federal regulations, 25 CFR 31a.4(d) relating to the education function pertain to Bureau operated schools. Tribal contract schools are not subject to this section of the regulations. Federal regulations 25 CFR 31a.4(d) indicates that the Assistant Secretary for Indian Affairs through the Director shall ensure that Indian Tribes and Alaska Native entities fully exercise self determination and control in planning, priority setting, development, management, operation, staffing and evaluation in all aspects of the education process.

The Puyallup Tribal education plan indicates that the Tribal Council shall administer the tribal school. The source and nature of the ability to affect and/or determine education on the part of the tribal govenment within the jurisdictional limits of that government is fundamental to any decision of tribal responsibility in Indian education and vital to enable the determination of effective cooperative roles in Indian education potentially available both within and outside the jurisdictional limits of tribal govenment. There are no tribal politics involved when the Tribal Council meets as a school board. The education of their students is foremost. The school is certified by the State of Washington as a private school and all the teachers and school administrators now hold valid Washington State certification.

The change in administration is not unusual and is indicative of administrative changes in small rural schools...better retirement systems and higher salary schedules in other locations. Many changes were individual choices and not at the request of the tribal council. Following are the adminstrative staffing changes that have taken place during FY 80, 81, 82.

Wa-He-Lute Staffing (Admin.)

1980	Dick Basche (Native American, Principal for 3 years) resigned to return to Unverisity of Washington for Masters degree and Administrative credentials.
1981	Dick was replaced for the year by Emma Sneed.
1982	Emma was replaced by Lionel Kinuwa (Lakota) putting into play the Tribal policy of Indian preference.

Chief Leschi Elementary (Admin.)

1980 Marge Flanders (Non-Indian Principal for 3 years) resigned because of a move to Alaska.

1981 Marge was replaced by Keith Johnson (Makah) following Indian preference.

1982 Keith resigned because of a position he accepted with his own tribe. The position was combined with the High School Principal position. John Ogao, Hawaiian and previously our High School Teacher in 1979-80, filled the vacancy.

Chief Leschi High School (Admin.)

1980 Chuck Bingham (Non-Indian previously teacher at High School for 5 years) was the principal for 1 year. He chose to return to a teaching assignment and was replaced by Bill Stops.

1981 Bill Stops (Crow) resigned towards the close of the school year and the position was filled by John Ogao.

1982 John Ogao previously taught at our High School in 1979. He resigned to complete a MA program (and principal credentials). He returned this year as principal of the Elementary and High School.

Superintendent - Karma Torklep was Superintendent for 3 years. She was "replaced" by Trish Geringer (previously Associated Superintendent for 7 years).

Comment:

The public schools offer a much larger curriculum, greater opportunity for outside activities, and better library facilities and audio-visual educational aids. Also a teacher in a public schools can concentrate on students in one grade or at the higher levels in one area of expertise. In comparison, the teachers in the Tribal system must teach several courses or students in several grades. No vocational courses were offered and library and audio visual materials and resources were lacking.

Response:

This comment is an assumption on the part of the auditor as to what is important and what is trivial. Small schools no doubt have weaknesses in regards to curriculum offerings, financial resources, and have higher per pupil costs than do larger schools, however the size of the school is not necessarily the determining factor in producing quality education experiences. Achievement is more related to the quality of teachers and the type of students a school serves than to the size of the school or specific policies or practices.

A smaller teacher/pupil ratio allows for more individualized instruction. Innovative practices such as team teaching, flexible schedules, and multigrade groupings can be more easily implemented because the numbers involved are smaller, making planning much less complex.

Many Indian students lack the skills and cultural orientation necessary to succeed economically or to "feel compatible" in the public school setting. Because of an uncertain future and inadequate means to acquire or understand the things and ways of the dominant society, frustration abound, especially among the youth. Growing out of this situation where uncertainties prevail is a lack of a sense of direction and purpose which leaves individual youth vulnerable to negative influences. Public education, it's curricula, faculty and the ways schools are organized and supported is frequently at the center of the conflict.

The tribal school curriculum is shaped to foster pride in heritage and familiarity with traditional ways. At all times, parents, elders, community members and students themselves are consulted in the on-going effort to match what the school offers with the developing needs of its students.

This tribal school meets state accreditation standards and school policy requires that students pass the G.E.D. test prior to obtaining senior status. To date all students have passed.

The school has a viable Career Vocational program tied to a work study program with tribal govenment. Library and audio visual materials are limited but not lacking.

Most students at the high school would not qualify for the regular curriculum classes in the local public school and would end up in the school districts alternative schools. Therefore the larger curriculum and opportunity for outside activities would not be available to them nor can the public school provide for cultural experiences. At this time the areas alternative schools are already crowded and additional students would impact the existing programs.

The vocational training courses in the Tacoma public schools are costly. Students are expected to pay for projects they enter into, placing a financial burden on families, many of whom are unable to pay.

Comment:

Not all of the students enrolled under the Tribal school system are Puyallup Indians and some do not meet the quarter-blood quantum eligibility requirement for ISEP funding. For example, none of the 12 high school graduates in 1980 and 1981 were Puyallups, and 40 of the students in each 1980 and 1981 were less that quarter-blood Indians. Also the Wa-He-Lute Elementary School is located near Nesqually, Washington, an area primarily served by the Nesqually Tribe.

Response:

The Puyallup Tribal Education Plan indicates an open enrollment policy that ...denies no child of a tribal member admittance as long as that child maintains a satisfactory level of cooperation in his/her educational program. No child of a non-tribal member shall be denied admittance and shall be subject to the same level of cooperation in the educational program. This is in keeping with 25 CFR 31a.4(e). Respect for Family ...Promote, respect and defend the cohesiveness and integrity of the family, and Tribal and Alaska Native community as they relate to the educational and social prerogatives of the Tribes and Alaska Native entities.

Students ineligible for ISEP funding were for the following reasons: Adoption records were incomplete, non-eligible Canadian Indians, parents involved in custody suits do not want spouses name revealed resulting in incomplete family tree information, non-federally recognized tribes and those with less that 1/4 degree blood.

Federal government policies and laws recognize Indian prerogatives of self-determination. Tribal responsibility for the education of Indian children within tribal jurisdictional limits can be sustained as an aspect of a tribes inherent sovereignty.

Comment:

At the time of our review, the food service program was not in operation at the Wa-He-Lute Elementary School and was substantially reduced at the other two schools. The contract stipulated that the Tribe shall provide "...a food service system for all three schools to serve breakfast and hot lunch daily." The Tribe had received Department of Agriculture funds previously, but such assistance was not being provided in fiscal year 1982, at the time of our review.

Response:

The school received subsistence and particpated in the National School Lunch and Breakfast Programs throughout the school year. Regulations to convert BIA supported schools from the program to a Commodity Program have not been published yet. The school was notified February 12, 1982 from the School Program Section, Child Nutrition Programs Western Region of their continued eligibility extending to July 1, 1982.

Comment:

Some education positions are in jeopardy because of uncertain funding in the Department of Labor's Comprehensive Employment and Training Act program.

Response:

The education positions indicated were those of non-certified staff. These funds have been restored.

Comment:

Starting in fiscal year 1982, tribally controlled contract schools, such as the Puyallup schools, were no longer eligible for Johnson-O'Malley funds. The Tribe received $27,580 in 1981 and anticipated receiving $22,440 in such funds for 1982, prior to the Congressional decision (anticipated by 25 CFR 31h.23) to no longer provide such funds to contract schools.

Response:

Johnson O'Malley funds received by the school were used for cultural enrichment -- the teaching of the Salish language. The program is still in existence as tribal elders are volunteering to teach the course. The tribe feels very strongly about this program. It is one of their goals within their educational plan. The school shall promote the understanding and continuance of the cultural heritage of the tribe by all students. It shall strive to achieve the establishment of an understanding, on the part of each student, of tribal history, contemporary tribal issues and the tribal role is the future. From the ethnic point of view, the public school system cannot meet this need.

Comment:

Savings through the discontinuance of the Tribal Education system would be the amount of the Federal educational contracts and grants awarded to the Tribe, less some adjustment for increases in indirect costs applied to other contracts ..., so the savings to the Federal government, using fiscal year 1981 data, would fall somewhere between $1.1 and $1.6 million per year.

Response:

The data analysis stated is incorrect. Although savings would be realized, the amounts would be substantially lower due to the impact the students would have on federal funds being diverted to the receiving school districts. Funds being impacted would be P.L. 874 Impact Aid, Johnson O'Malley, Title IV Part A, Title I, P.L. 94-142 Education of the Handicapped Act, Bilingual Education funds and other supplemental funds the students would qualify for.

Comment:

The preschool required by the contract was not in operation because of the "uncertainty of funding" for preschools.

Response:

The actions of Congress have a direct impact on educational programs financed by the BIA. Because of uncertainties in the FY '82 appropriation, it was not known if certain programs would be funded in FY '82 or not. Preschools are not funded under the ISEP formula. They are funded under the Bureau Element 14, Special Education Experiences. This element was proposed to be eliminated and funding was uncertain as late as January, 1982. The tribe did not want to commit themselves to a program that may or may not be funded. Once the decision was made to fund preschools, action was taken to undertake the program.

Comment:

The funds provided by the Department of Education to help the Tribe establish the school system have been exhausted. A grant for about $600,000 significantly supplemented the funds provided by BIA during school years 1979, 1980, and 1981.

Response:

Funds received from the Department of Education Title IV Part A are to be used: (1) to strengthen the quality of elementary and secondary education through support of locally initiated projects and activities designed to improve education practices; (2) To assist local educational agencies in the acquisition of necessary books, materials, library resources and instructional equipment; and (3) To strengthen and expand programs of counseling and guidance devices and testing of students in elementary and secondary schools.

The establishment of a new school organization entails start up costs that taxed the financial capability of the tribe. Other sources of funding was needed to supplement base appropriations provided by BIA. The tribe like other schools, both private and public, are eligible to apply for funding provided by the Department of Education under Title IV Part A.

Because the tribe received the grant should not be viewed in a negative sense, but as prudent on the part of good management. It accomplished the goal of securing adequate equipment, supplies and materials to put the school on a sound basis. Although continual funding from this source would provide additional benefits, it is no longer needed to finance the school.

Comment:

The Tribe received education related Federal contracts and grants of $1.4 million and $1.6 million for fiscal years 1980 and 1981, respectively. These contracts and grants compute to about $6,000 per student in 1980 and $9,000 per student in 1981. In contrast, the average annual cost per student in the public schools in the Tacoma area, which educated 4 times as many Indian students as the Tribal schools, was about $3,000 in these years. So Federal funds of about $1 million per year could be saved by educating students in the public schools rather than in Tribal schools.

Response:

This may have been true in FY '80 and '81 because of the impact of the Title IV grant for school start up costs. However, in FY '82 the Puyallup Tribal School's allocation will be as follows:

1161 (Direct Instruction)	164,020
1167 (Food Service)	23,180
1190 (General Operation)	77,844
1168 (Student Transportation)	47,821
1191 (Indian Policy Group)	2,032
1890 (General Operations - Handicapped)	6,549
1883 (Safety Conversion - Handicapped)	2,289
6563 (Facilities Maintenance)	26,709
6440 (Facilities Operations)	39,147
TOTAL	389,591

P.L. 94-142	56,020		389,591
Title I	84,621		146,721
Title IV B	1,080	TOTAL	536,312
Title IV C	5,006		
	$146,721		

Number of Students K-12:
35 non-eligible
145 eligible
TOTAL 180

Per pupil Expenditure: K-12
Eligibles: $3,698
All Students: $2,979

The per-pupil expenditure does not include indirect costs. Indirect costs should not be counted in per pupil expenditures, as it has no relationship to direct services, but to administrative overhead incurred by the tribe. Public schools do not include administrative overhead or transportation costs in per pupil expenditures and to compare the tribal schools indirect as part of per pupil expenditures would be erroneous. Preschool costs are also not totaled in the line items as this is funded by the separate line item. Per pupil expenditures for the preschool would be $1,225 per student for FY '82. This represents a very low cost expenditure per student (49 students - $60,017).

The per pupil expenditure K-12 is comparable to other schools in the State of Washington of comparable size as indicated by the following:

PUBLIC SCHOOLS - STATE OF WASHINGTON FY 82

Elementary High School	Enrollment	Per Pupil Expenditures*
Prescott	181	3,347
La Crosse Jt.	182	3,432
So. Side (non High Sch.)	195	1,173
Colton	202	3,028
Touchet	210	2,750
Inchelium	220	2,564
Entiat	224	2,642
Conway	224	2,134
Tekoa	229	2,709

*The figures do not include transportation costs.

Puyallup Tribal School	180	2,979

To measure cost, without taking into consideration whether the cost is actual or cost adjusted and comparing without accurate information can lead to erroneous conclusions. Measuring objects such as expenditure per child, real resources such as teachers or supplies per pupil, outputs, and outcomes are all subject to value judgements.

INTRODUCTION

The Puyallup Tribe requested a fiscal audit of Tribal contracts and grants with emphasis on data from F.Y. 78 and F.Y. 79. The result to date has been a draft programmatic audit of the Puyallup Tribe's school system emphasizing F.Y. 80 and 81. The B.I.A. Area and Agency Offices and the Puyallup Tribe were never informed that a programmatic audit was underway. As a consequence, the draft report is based upon an extremely superficial overview of the school system. There was no communication with teachers, aides, principals, parents, students, administrators or school board in an attempt to determine depth and scope of education programs offered, rationale behind classroom structure, uniqueness of the students and corresponding programs, innovative teaching approaches, students' previous academic and attendance history, philosophy of the system, community and parent support, qualifications of education staff, differences in learning styles of minority children, future goals of the system and timelines for achieving the goals, status of graduates, dropout rate of Tacoma and other public schools for Native American population... A five minute tour of the school was the extent of classroom visitation. A visit was made to Tacoma Public School Administration (Mr. Egawa's Title IV Office). A conclusion was drawn that the Tribal schools were a duplication of public school education. It is a fact, however, that Mr. Egawa and other Tacoma Public School Administrators have never visited the Puyallup Nation Education System. A subjective comment by a auditor towards the onset of the auditing period strongly suggests a prejudice attitude prior to seeking concrete facts about the system; the auditor stated that the students would be better off in a public school and questioned the utility of the B.I.A. He stated that he did not expect a response to the comment even though the Acting Superintendent provided one. The incident was immediately reported to Mr. Bill Rifenbery, B.I.A. Agency Office and

C.O.R. for the Tribe. This draft report is lacking in concrete and/or accurate data and was written by auditors that may be lacking the necessary background in the field of Education to make determinations regarding soundness and effectiveness of an educational program, particularly an education program designed to meet Native American needs.

It is the intent of this response to provide your office with the substantive information neglected by the auditors in regards to program operations of the school system.

Auditor's Comment:

" The Tribe received about $3 million for fiscal years 1980 and 1981 to operate a school system that is, in our opinion, unnecessary, uneconomical, and ineffective".

Response:

Fact # 1: 19 graduates from the school system are currently productive citizens. None of our graduates are on public assistance and several serve this country in the armed forces. The 19 graduates share a common fact: all 19 either dropped out, flunked out, or were kicked out of the public school systems. (Appendix A)

Fact # 2: Over 150 responses from parents, students, staff, community, including public school representatives, University staff, and the Governor's Office have confirmed overwhelmingly that the school system is necessary, effective, and definately NOT a duplication of public school education. (Appendix B)

Fact # 3: Parent and student reponses indicate that students felt discrimination, undue academic and social pressures, lack of responsiveness to building self-images...failure in public school education. (Appendix B)

Fact # 4: Clover Park Public School District's Alternative Education Program is full to capacity. Doors are closed. Tacoma Public School District's Alternative Education Program is occasionally open, however, students within the District have priority to enter the program designed for, students 16 years and older. Small outlying public school districts do not have alternative education programs. The Puyallup Nation Education System's High School meets the needs of Indian students needing an alternative education that is currently unavailable (and unsatisfactory) in public school systems.

Fact #5 : As stated by the auditor, the opening remark is an "opinion". The Tribe questions the expertise of the auditor to make such an "opinion" regarding soundness of an educational program provided to people of a differing culture.

Fact # 6: Several Indian children have been misdiagnosed by public schools as Mentally Retarded. It is the policy of the Tribal school system to re-evaluate every student with a special services file. The Tribe is aware of the massive individual and class-action suits facing public schools in California as a result of culturally bias testing in the assessment process of minorities. (Appendix C)

Fact # 7: Academic and absentee rates of students previously enrolled in local public schools compared to enrollment in the Tribal schools is astonishing. Example: Student # 101 was absent for 26½ days while enrolled in Tacoma Public Schools during 1979-80. During his enrollment at Chief Leschi Elementary for school year 1980-81, he was absent 0 days. California Achievement Test scores indicate an average school wide gain of 1 year per year of school. Public schools were unable to provide comparable statistics for the Native population. School transcripts, however, demonstrate marked differences. Student # 200, for example, went from an "F" standing at Tacoma Public Schools to a 2.5 G.P.A. in the Tribal Schools. Elementary and High School academic programs meet Washington State Accreditation Standards as recorded through Mr. Carl Fynboe's Office, Director of Private School Certification, Superintendent of Public Instruction, Olympia, Washington. For repeated examples note Appendix D.

Auditor's Comment: Students in the Tribal School System could be educated in nearby public schools at a cost of $3,000 per student per year, compared to costs of about $6,000 and $9,000 per student, per year, in the Tribal system for fiscal years 1980 and 1981 respectively.

Response: A visit with the Superintendents of the Orting and Dieringer public school systems (both more representative in size to the Tribe's system than Tacoma Public Schools) revealed several facts pertinent to determining cost effectiveness of the Puyallup Tribe's school system.

Fact # 1 : No "indirect" dollars are computed for "Basic Education" only non-employee related factors. The auditor computed the Tribe's $6 - $9,000 per student on total budget figures including a negotiated Indirect cost; this provides an extremely distorted perception of costs needed to educate students. It should also be noted that indirect costs are difficult to compare because of numerous variables (i.e. size of facilities, differing accountability requirements, etc.)

Fact # 2 : According to Orting's budget (Appendix E) the following comparison to the Tribal budget reveals extremely similar budgets and, in fact, if the public schools are the measurement tools that determine sound economics, the comparison indicates a need for additional dollars in certain areas. Orting's and Dieringer's superintendents pointed out that the smaller the school system, the greater the cost to educate the children.

Fact # 3 : Our current budget for F.Y. 82 equals approximately $762,069 (including indirect) and we are educating 230-235 students or $3,313 per student, not $9,000 as the auditor implies.when determining savings figures for the government. The budget without indirect equals approximately $579,648 or $2,520 per student.

COMPARISON OF ORTING PUBLIC SCHOOL / TRIBAL SCHOOL EXPENDITURES F.Y. 82

(Costs are computed on a per student basis)

	Orting Public Schools Student Population = 814	Puyallup Tribe's Schools Student Population = 230
Total Basic Education	1,105	825
Vocational Education	155	21
General Instructional Support (Principals, Counselor, Health...)	252	91
General Support Services		
School Board	15	9
Superintendent Office	126	233
Operation/Maintenance	202	286
Food Services	85	73
Transportation		

(Transportation in public schools are confined to a more specific geographical area verses a widespread area services by the Tribal school in order to meet Native American student needs since other Tribal schools in the area are non-existent.

Costs for Title I, Title IV, Handicapped are not computed above since the allocations would vary considerably depending upon numbers of children meeting the special criterias.

In addition to the above information, additional facts have been overlooked.

Fact # 3: When computing the Tribe's needed "cost per pupil", the auditors utilized statistical figures based upon contracts or grants awarded rather than actual expenditures. Although the Tribal School System was awarded F.Y. 81 grants totaling approximately 1.5 million, the total amounts were not expended (1.5 million includes indirect). The actual dollars spent were less.

F.Y. 81 Grant / Contract	Amount Awarded	Actual Expenditure
638	$ 1,120,397	$ 925,341
94-142	16,750	11,519
Title I	143,594	122,834
Dept. of Ed. Competitive Grants		
Title IV Non LEA (Last year of start up funds)	270,987	195,242
Title IV Entitlement (A supplemental program for the gifted)	44,107	26,258

Fact # 4: The generalization of a "$1 million dollar per year savings"to the federal government as a result of the school closure grossly over-simplifies the reality of the situation. Several factors are not taken into consideration:

--Due to the socio-economic and cultural backgrounds, the majority of the students would be in federally funded programs within the public school system thus costing additional federal expense to public education than currently existing.

--According to responses received by parents of students in the Tribal school system (Appendix B) a significant number of students had been previously kicked out, flunked out, dropped out of the public school system and instead of becoming productive self-sufficient individuals would statistically be more likely to become dependent on public assistance for an indefinate period of time. Obviously, this should result in considerable long-range expense to the federal government.

-- Many of our students would be handled by the public schools as handicapped-- either as a result of misdiagnosis (a current situation - Appendix C) or because of the public school's inability to meet some of the unique needs of our students in the regular classroom. Current cutbacks in special education dollars to public schools would seriously impact the capabilities of public schools to even remotely educate our children in an effective manner. Public Schools are finding it challenging to meet the needs of children already in their system.

Auditor's Comment:

The school system serves a total of 171 students in 3 schools: (1) an elementary school serving 26 students in grades K through 8, (2) an elementary school serving 79 students, K through 6, and (3) a junior/senior high school serving 66 students grades 7 through 12. The students could be served by local public schools with minimal impact.

Response:

Fact # 1: 230 pre-school through 12th grade students are served by Chief Leschi Elementary and Chief Leschi Junior/Senior High School. Wa-he-lute services an additional 40 (as of January 1st, 1982 Wa-he-lute became a school separate from the Puyallup Nation Education System). 171 of the students from all three schools meet ISEP funding criteria established by the Bureau of Indian Affairs. Additionally 51 pre-schoolers are enrolled. Students are determined eligible to attend the Tribal school system by established school policies, i.e. recognized by the Indian Community and verified through their Tribe as having Native American heritage. Students do not meet ISEP funding criteria for numerous reasons: adoption records are incomplete, Canadian Indians are not eligible for B.I.A. funds, parents involved in custody suits often do not want the spouse's name revealed resulting in incomplete family tree information, children are from Tribes that are not federally recognized, children have less than ¼ blood quantum from a recognized Tribe (even though the Tribe may recognize and enroll the child).

Fact # 2: A minimum of 45+ students having special educational needs would significantly impact public school capabilities since such programs have already been severely hit by fiscal cutbacks. Public schools are currently finding it challenging to meet the special needs of children already in special services program. Many of our students would be placed by public schools in such programs -- either as a result of misdiagnosis (a current occurrence) or because of the public schools' inability to meet some of the unique needs of our students in the regular classroom (Appendix C).

Fact # 3: Although public schools may have room for additional students, the auditors failed to address an important question: Can these students successfully survive and be educated to full capabilities in a public school setting, particularly in a setting that, for many students, has already failed them? (Note Appendix B (Parent Letters) and Appendix D (Comparison of Public School/Tribal School Attendance records).

Auditor's Comment:

Public schools in the immediate area serve over 8,000 high school students, 18,000 elementary students and more than 4 times as many Indian students as the Tribal Schools now serve.

Response:

The public school's drop-out rate is more than double the drop-out for the caucasian population. (Appendix F) In several outlying school systems, the drop-out rate is even higher.

Auditor's Comment:

The public schools offer a much larger curriculum, greater opportunity for outside activities, better library facilities and audio-visual educational aids. The curriculum, outside activities, and education resources offered by the Tribal high school were very limited. For example: in the fall semester of school year 1982, less than 20 courses were available for the students in grades 9 through 12. No vocational courses were offered; library and audio-visual materials ... were lacking, and transportation costs limited the use of the public library. A senior could choose his 6 courses from a total of 11 possibilities, all but 1 of which he may have taken in his 3 previous years.

Response:

Fact # 1 : As previously stated, it is apparent that the public school education was not sufficient to retain and successfully educate many of the students in the Puyallup Nation Education System despite a larger curriculum.

Fact # 2 : Both elementary and secondary curriculum in the Tribal Schools meet state accredidation standards as verified by Mr. Carl Fynboe, Director of Private School Certification, Superintendent of Public Instruction, Olympia, Washington. Tribal school policy states that all high school students must pass the G.E.D.

test prior to obtaining senior status. To date, all students have passed.

Fact # 3: It is apparent that the auditor does not understand the concept of individualized instruction. Due to a smaller teacher/student ratio compared to Tacoma Public Schools, teachers are able to provide individualized instruction and, as the need arises, design individual learning programs. The high school math instructor, Maria Canton, instructs students in her advanced math class with varied ability levels from algebra to trigonometry. The science instructor designs his individualized program in a similar fashion to his community college classes. Such individualization provides an extremely wide range of educational options.

Fact # 4: Since several of our high school students have academic weaknesses and low self-esteem due to continual failure and defeat in the public schools, it would be considered a luxury rather than a necessity to have the frills offered by the largest public school in the area.

Fact # 5: The auditor did not inquire about long range goals or even the total year's plan for the school system when describing the 1982 course offerings. A partial overview of the curriculum is a distortion of the actual educational program.

Fact # 6 : Within the general course areas available for high school students, individual learning packets are designed to meet the specific needs of students and take into consideration: student's previous academic background, reading level, and level of thinking (i.e. proficiency in synthesizing concepts, analyzing etc. following Bloom's taxomony). This particular subject area stretches far beyond the public school's version and delves into a comparative study of government involving Tribal law and includes active participation in Tribal court proceedings.

Fact # 7: In previous years the following vocational programs were offered as per student request: Woodshop, Home and Family Life, Native Regalia Making (sewing of Native clothes), Drafting, Basic Auto Repair. This year the vocational program took a new approach geared at providing first hand experience with the working world and particularly with Tribally operated programs. The first phase of a work study program was initiated in January 1982. Senior high students in good academic/attendance standing could choose an elective work study class. Every Director of the Tribe's various Divisions has opened his door to the students of Chief Leschi High School. Phase I of the work study program provides work experience in fields ranging from secretarial responsibilities to Tribal law enforcement dispatcher to mental health assistants. Phase II will expand the work experience to business management in Tribal enterprises and dental assistant positions in the Tribe's Health Clinic. The vocational relevancy of the Puyallup Nation School System's Voc. Ed. program surpasses Tacoma Public School or any other public school system in the area. (Appendix G)

Fact # 8: A senior does not select his 6 courses from a total of 11 possibilities all but 1 of which he may have taken in his previous years. The concept, breath and scope of individualized education coupled with the talents of an excellent teaching staff provide practically unlimited variability of academic choices and levels of difficulty. Courses are offered and taught that meet State accredidation standards.

Fact # 9: The auditor made no reference to the excellent education program offered at the elementary level.

Fact # 10: Outside activities are available to our students. Fund raising events have been initiated all year to compensate for funding limitations; students and community are actively involved in such activites as : Indian taco sales, school carnival, community movies, etc. (over 250 parents, community members, council members, staff, children participated in the carnival alone). Sports events are available to students. A boys and a girls basketball team have been extremely successful as part of the Muckleshoot All-Indian League. The boxing club has succeeded in securing numerous trophies. Students are currently preparing to participate in the Indian Olympics this Spring including raising the funds to participate. The results of the various activities have been a growing school-community relationship, active parent and student involvement, and a feeling of pride and spirit in providing for oneself during the challenging times facing this country. The Elementary School has a Native American song and drum choir that performs throughout the Tacoma/Seattle area. The group has performed at local public schools, the Tacoma Mall, Daffodil Parade, Pierce County Fair, etc. Community night is held once a week in the elementary school. Parents, students, elders and community members assemble to make ribbon shirts, shawls, baskets, moccasins, drums, etc. for the students. It is an opportunity to share ideas and provide for their children. "Outside" activities are viewed as an important extension of the education process

Auditor's Comment:

A teacher in the public schools can concentrate on students in one grade or at the higher levels in one area of expertise. In comparison, the teachers in the Tribal system must teach several courses or students in several grades.

Response:

As evident in Appendix E, many public schools, particularly in smaller districts, utilize staff to teach combination grades and subject areas. The middle school staffing assignment for the Dieringer School District exemplifies good administrative management by utilizing staff members in more than one subject field. Example: M. Keaton teaches American History for 3 periods and Reading/Typing for 3 periods. J. Kindle teaches math half a day and P.E. the other half. At the Orting Junior/Senior High, M. McManus teaches Chorus 1st, 2nd and 6th period and U.S. History 3rd and 4th, etc. Several small schools also assign principals to a teaching position such as with Oakville Public Elementary School. In the Tribal School System, all high school instructors teach only their area of specialty (i.e. the math instructor teaches math all day; the history teacher teaches Social Science classes all day...). Elementary grades are combined, a customary practice for individualized education programs. The result has been a quality education program at all levels.

Auditor's Comment: Not all of the students enrolled under the Tribal school system are Puyallup Indians and some do not meet the quarter-blood quantum eligibility requirement for ISEP funding. For example, none of the 12 high school graduates in 1980 and 81 were Puyallups, and 40 of the students in each 1980 and 1981 were less than quarter -blood Indians. Also, Wa-he-lute Elementary School is located near Nisqually, Wa, an area primarily served by the Nisqually Tribe.

Response: One is in a quandary of how to respond to this paragraph because it is difficult to ascertain what point is being made.

Fact #1 : Two graduates in 1981 were Puyallup.

Fact #2 : Established policy regarding admittance requirements for Native

American students states: 1st Priority - Puyallup Indians, 2nd Priority - Native Americans meeting ISEP requirements, 3rd Priority - All other Native Americans.

Fact # 3 : As of January 1982, Wa-he-lute Indian School separated from the Puyallup Nation Education System.

Auditor's Comment:

The Tribal school system's dropout rate is high even though the reduction of the rate was a primary objective of the system. For example, of the 17 members of the high school freshmen class of 1979, only 2 were still in school in November 1981.

Response:

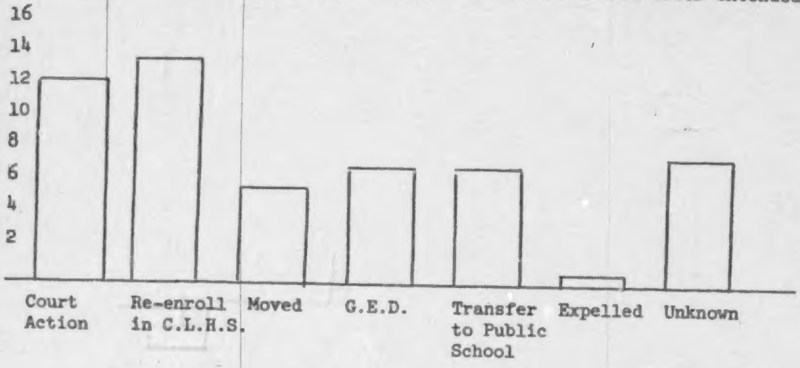
Fact # 1: It is important to first define "dropout" and second to examine why a student leaves the system. The Tribe's definition of "dropout" is a consecutive absence of 14 days due to any number of reasons. It does not mean that a student has necessarily dropped out of school altogether or that the student never returns to the Tribal school setting (in fact, he often does return).

TRACKING OF HIGH SCHOOL STUDENT "DROPOUTS"
SPRING QUARTER OF 1980

Grade Level	REASONS FOR LEAVING C.L.H.S.						
	Court Action (custody, C.P.S., Foster...)	Moved Out of Area	G.E.D.	Re-enrolled at C.L.H.S. after 14 day absence.	Public School	Expelled	?
7th	3			1	1		2
8th	4	3		2	3		1
9th	4	2	2	6	2	1	1
10th	2	1	4	4	1		2
11th			1	1			2

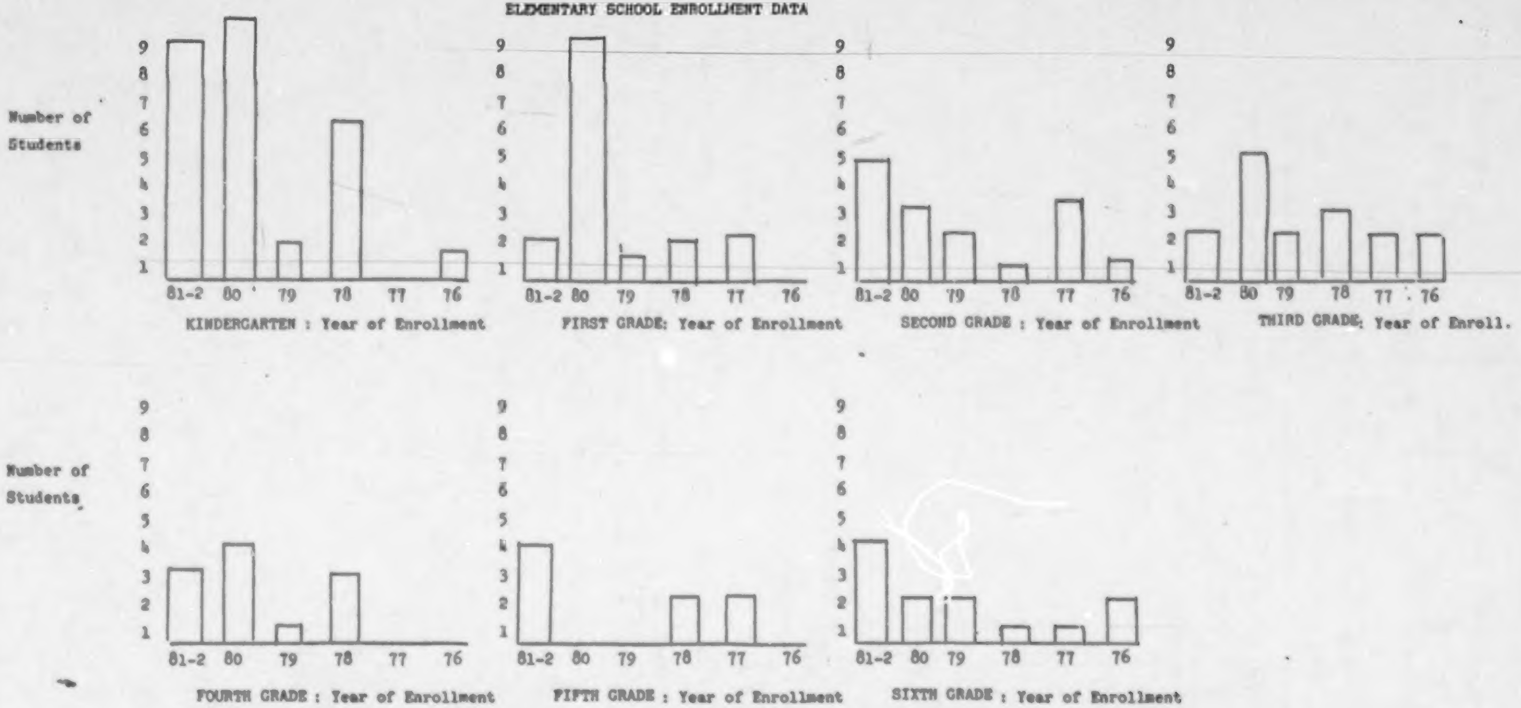
12th graders remained constant during this sampling of time.

Summary of tracking high school dropouts during spring quarter of '80 indicates that the majority of the "dropouts" re-enrolled back into Chief Leschi High School after a 14+ day absence. Absences such as this occur for varied reasons (illness, family situation, fishing season,...) The second highest tracking category was that of Court Action (custody changes, child protection service intervention, juvenile court action, foster placement, Kwatee Group Home status, etc.). Very few children fail our system. There is a 72% return rate (students re-enroll after extended absence).



Fact # 2 : It is also imperative to examine the consistency of student enrollment at the elementary level and look comparatively at student attendance at Chief Leschi verses previous public school attendance records. The following graphs indicate two important factors: 1. There is a continual influx of new students at the elementary school. 2. Retention of previous students is extremely good. Numerous children have remained with the system since its meager beginnings in Early Childhood Education in 1976.

ELEMENTARY SCHOOL ENROLLMENT DATA



KINDERGARTEN : Year of Enrollment

FIRST GRADE: Year of Enrollment

SECOND GRADE : Year of Enrollment

THIRD GRADE: Year of Enroll.

FOURTH GRADE : Year of Enrollment

FIFTH GRADE : Year of Enrollment

SIXTH GRADE : Year of Enrollment

The above graphs indicate the distribution of F.Y. 82 enrollment at the elementary level and the number of students that enrolled in the school system during the various school years, i.e. 3 third grade students first entered Chief Leschi Elementary in 1978 and have been consistently enrolled ever since that time.

Fact # 3 : Considering that the majority of the high school students and many of the elementary students enrolled in the Tribal school system, either dropped out, failed, kicked out, or had low self-esteem as a result of public school education, our success rate is remarkably high and steadily getting higher. (Appendix D: Absentee and Academic Comparisons)

Fact # 4 : The dropout rate of Tacoma Public Senior High Schools for Native Americans averages 25% +, over double the dropout rate for the caucasian population. It is many of those students that the Puyallup Nation Education System services. Tacoma Public Schools 1979 enrollment of Native Americans equaled 625 elementary students, 259 junior high students and 167 enrolled high school students. The same inverse relation between grade level and number of Indian students enrolled exists in 1981. The second largest public school in the area, Clover Park School District, also consistently has a 24-25 % dropout rate of Native American senior high school students.

Auditor's Comment:

The Tribe has continually changed its school officials. The principal of each of the three Tribal schools was replaced after the 1980 school year and again after the 1981 school year... the superintendent was terminated after school year 1980-81 and had not been replaced at the time we (auditors) left the site in December 1981... the school board at Puyallup is the Tribal Council, a political entity. Federal regulations ... provide that the education function will be "structured in such a manner that all matters relating to the operation of the education programs be administered by or be under the direction of education personnel".... the decision to run a separate elementary school serving about 26 students in grades K-8, and located 20 miles away, was a intra-[illegible]bal political decision not based on educational needs. Students at all three schools are bused. The combined enrollment at the two elementary schools in Nov. 1981 (105) could be served at Chief Leschi Elementary School.

Response

Fact # 1 : There are no politics involved when the Tribal Council meets as a School Board. The education of the students is foremost. The fault in staff turnover is due to limited yearly funding compared to the State of Washington public schools stable programs, retirement systems, and higher salary scales.(This year with Reaganomics, we have been on a month to month funding.) It has proven every time that we have made a staffing change, for example in regards to superintendent and principals for the last three years, the program has benefited with the students receiving the higher quality of education.

ADMINISTRATIVE STAFFING PATTERN F.Y. 80,81, 82.

Superintendent: Karma Torklep (1978 to 1981) was replaced by Trish Geringer, previously Associate Superintendent since 1979.

Elementary Principals: Marge Flanders (principal for 3 years) resigned in 1980 for a move to Alaska and was replaced by a Native American Keith Johnson. Keith was offered a position with his own Tribe in Neah Bay and was replaced by John Ogao, Hawaiian and previously our high school teacher. (Marge did not hold administrative credentials and the other two administrators did.)

High School Principals: Chuck Bingham (previously our high school teacher for 3 years) asked to return to his teaching assignment in 1980.

He was replaced by a Native American, Bill Stops. Bill resigned in 1981 and the position was combined with the elementary school position which is filled by Mr. Ogao, holder of a Washington State Principal's Credential.

Wa-he-lute Principals: Dick Basche (principal for 3 years at the school) returned to higher education for completion of his M.A. degree in 1980. He was replaced by Emma Sneed (non-Indian). Emma's contract was not renewed by parent request since every effort was being made to obtain a Native American Emma was fully aware that the position was a one year assignment during Dick Basche's leave of absence. Dick had not completed his degree by 1981 and Lionel Kinuwa, Lakota, took the assignment. Lionel was previously our high school principal in'78-79 and cultural coordinator from'79 to'81.

Fact # 2: It is totally impossible and impractical to bus students from the Nisqually area to Chief Leschi Elementary. The decision to operate a separate elementary school in that area was not a political decision but a decision based upon need and practicality. Student transportation costs would be prohibitive; the time factor involved in transporting the students would take educational time away; Washington State Code prohibits transportation time to exceed one hour. Picking up the students at their homes and transporting them to Tacoma would definately exceed the time factor alloted by in excess of an additional 1½ hours (estimated).

Auditor's Comment

Future program funding constraints will probably add to the ineffectiveness of the school system. Special funds, which were about one fourth of the schools' total funds in fiscal year 1980 and 1981, will no longer be available. These special funds included Department of Education start-up funds and funds for students with less than one-fourth Indian blood quantum.

Response

Fact # 1 : The comment is made with no basis in fact and indicates personal bias.

Fact # 2 : Extensive fund raising efforts by the community, parents, staff and students have aided in providing nutritious school breakfast/lunches during U.S.D.A. uncertainty, supplies beyond those available through regular funding, curriculum updating, field trip dollars, uniforms for the basketball teams, yearbooks, etc.

Fact # 3 : Department of Education start-up funds were exactly that - the funds utilized to start up the program which is now underway. The other grant referenced by the auditors was a supplemental grant for a gifted program.

Fact # 4 : Additional dollars are definately needed. They are also needed by the public schools. It has been the legacy of education systems in this country (private or public) to receive far too little dollars for a far too important responsibility - the education of our future generation.

Auditor's Comment

In view of the excess costs, the questionable effectiveness of the school system, and the potential decreases in available funding, we are recommending

KICKAPOO NATION SCHOOL BOARD
Post Office Box 106
Powhattan, Kansas 66527
(913)474-3364

RESOLUTION NO: KNS-004

WHEREAS, the Kickapoo Tribe of the Kickapoo Reservation in Kansas is organized in accordance with the provisions of the INDIAN REORGANIZATION ACT of June 28, 1934 (48 Stat. 984) and

WHEREAS, the Kickapoo Tribe in Kansas is authorized to contract with the Bureau of Indian Affairs under Section 102 of TITLE I of THE INDIAN SELF-DETERMINATION AND EDUCATION ASSISTANCE ACT (P.L. 93-638) and

WHEREAS, the Kickapoo Tribal Council passed a resolution to contract with the Bureau of Indian Affairs, with Bureau funds to operate the KICKAPOO NATION SCHOOL from June 15, 1981 to June 14, 1982 on the 20th day of August, 1980, by a vote of 5 for, 0 against, where 6 tribal council members were present, consisting of the required quorum and the Chairman not voting and

WHEREAS, on May 29th, 1981, the Kickapoo Tribal Council appointed the Kickapoo Nation School Board and approved their School Board By-Laws on the 15th day of June, 1981, Resolution No: K-81-49 by a vote of 4 for, 0 against, with 5 Kickapoo Tribal Council members present, consisting of the required quorum, with the Chairman not voting and

WHEREAS, in accordance with CFR 25, Subpart B, 271.18(c) (2) when the tribal organization is other than the tribal governing body: The Kickapoo Nation School Board is controlled, sanctioned, or chartered by the Kickapoo Tribal Council of the kickapoo Tribe in Kansas whose purpose is to assure effective implementation of educational programs for the Kickapoo Nation School and

WHEREAS, the Kickapoo Tribal Council hereby authorizes the Kickapoo Nation School Board to properly exercise authority in the following areas: CFR 25, Subpart B, 271.18(2) (A), (B), (C), (D), (E), (F), and (G) and

WHEREAS, the Kickapoo Tribal Council of the Kickapoo Tribe in Kansas hereby delegates authority to the Kickapoo Nation School Board to apply for, negotiate, and execute the Kickapoo Nation School contract effective on the date, the 7th day of December, 1981, by a vote of 6 for, and 0 against, with 7 Kickapoo Tribal Council members present, consisting of the required quorum, with the Chairman not voting and

WHEREAS, historically the geographical location of the Anadarko Area Office has created an undesirable political atmosphere that discourages the progress of the Kickapoo Tribe and

WHEREAS, the Kickapoo Tribe hereby demands that their jurisdiction under the Anadarko Area Office be transferred immediately to the Bureau of Indian Affairs Central Office, Washington, D.C.

THEREFORE, BE IT RESOLVED: That the Anadarko Area Office is a political hinderance toward the self-determination of the Kickapoo Tribe, the Kickapoo Nation School, the Contract, and the quality of Education to our Indian students, presently and to the future if this situation is allowed to continue

BE IT FURTHER RESOLVED: We, the Kickapoo Nation School Board demands that the jurisdiction be transferred immediately from the Anadarko Area Office to the Bureau of Indian Affairs Central Office, Washington, D.C.

CERTIFICATION

This foregoing resolution was adopted at the regular school board meeting held on the fourteenth day of May, 1982, by a vote of 5 for, 0 against, with 6 school board members present, consisting of the required quorum, with the Chairman not voting.

ATTEST: Board Member

Chairman

Ms. **Hunt**. I have some general questions for the contract school representatives. Anyone may respond. After we have had your answers, we will go on individually to the schools.

Do you have any thoughts about the Bureau of Indian Affairs new plan to study contract schools and to assess program quality? Apparently, in the case of Puyallup, the Office of the Inspector General is trying to assess program quality from what I am hearing. The Bureau is planning to do the same thing. What are your comments on the imposition of additional standards on contract schools that we anticipate the Bureau to soon impose?

Mr. **O'Neal**. My comment would be if you were to line up all of the people that were capable of assessing educational programs for Indian children, the BIA would be at least last, if they were on the list at all.

They could never do it. They tried for several hundred years to do that. How can they possibly now come in and evaluate our programs. I think you would have to go and have our community people and the people being served by the schools to evaluate their program, not the BIA.

Ms. **Hunt**. Other comments?

Ms. **Geringer**. I am in total agreement with that.

Ms. **Hunt**. What effects do you see the new reorganization with the education regional office having on contracting procedures? I understand that a number of contract schools are well into the year before they actually get a contract signed. Do you anticipate that this will speed it up or will have longer periods of time? How long in each of the three cases here does it take for you normally to get a contract signed?

Mr. **O'Neal**. Under the current system, it can go anywhere from 2 to 3 months to 1 year, or even longer. I would foresee moving the area office further away and having what is really another layer of bureaucracy to go through, at least being lengthened by that. There is no way that it can be shortened. The only way to shorten it is to get rid of some of the bureaucrats and they are just putting more out there.

Ms. **Hunt**. When did you get your contract signed for this fiscal year?

Mr. **O'Neal**. You asked me an embarrassing question. I began in November. I am not sure. I do not know about the title 1 contract. It was finally approved in February.

Ms. **Hunt**. What about the contract with the Bureau? Do you have a contract signed?

Mr. **O'Neal**. Yes, we do. Because I was not there during that period I am not sure how long it did take. The school that I was with last year got their first project approved for the Bureau in February of this year. It was first presented before school began in August.

Ms. **Hunt**. How about Puyallup? Have you had problems in getting contracts signed?

Ms. **Geringer**. Yes. We have had a number of problems along that line. I think that our biggest problem is finding out when our final allocation would be. When we find out our allocation in March, most of the school year has gone by. It can be devastating. That is when we found out this year.

Ms. **Hunt**. How does one plan and budget under those circumstances?

Ms. Geringer. It is like taking out a crystal ball. As an example, our transportation budget was cut so much that—evidently they have changed the formula in figuring the transportation. If we had not happened to have had some carryover from the previous year, we would have been over spent by $30,000. We had bus leases. It was not something that we could readily get out of. It was obligated costs. It was difficult to plan.

They give us a tentative budget but that is all that it is; a tentative budget. When we get that final allocation it can be extremely different than what we had planned on.

Ms. Hunt. What is the current situation with indirect costs and O&M moneys? Was it a previously private school or a bureau? Was this a new school?

Ms. Geringer. It is a 638. It was established as a 638 and it always has been.

Ms. Hunt. You get operation and maintenance moneys separate?

Ms. Geringer. Yes.

Ms. Hunt. Do the amounts that you are getting now meet the needs for paying fuel bills and that kind of thing for maintenance of the physical plant?

Ms. Geringer. No. They are fixed amounts when they are appropriated. They do not take into consideration the condition of the building or the size of the building. Our high school is located in an extremely large facility. It is an old facility and is in need of a lot of renovation. We have to hire certified boilermen to keep the building going. It is extremely costly to employ people to do these kinds of jobs. No, it does not take into consideration the individual differences; at least our contract school.

Ms. Hunt. Does it meet 50 percent of the needs; 75 percent—the amounts that you get for operation and maintenance?

Ms. Geringer. I suppose that in relationship to the school our budget would probably meet 60 to 65 percent of our needs.

Ms. Hunt. How about indirect costs? Have you had problems with indirect costs? Are you able to manage within either the lump sum you get or the rate that you have whether you are on the rate or the lump sum? Which are you?

Ms. Geringer. I guess probably the biggest difficulty is negotiation of the indirect. It seems to take such a long time for there ever to be a final decision on what the indirect percentage is.

Ms. Hunt. You are on an indirect cost rather than getting a lump sum amount?

Ms. Geringer. Right. We have had problems with that. The tribe has had to, not only in our indirect, but in our direct funding go to the bank and get 18-percent loans in order to make salaries. That included teachers taking a 10-percent salary cut and administrators taking 20- to 30-percent salary cuts in order to keep the school going this year.

We have had indirect problems and direct problems all along. I think in relationship to the negotiations once it is decided, it appears as though there can be some adjusting in the thinking afterward. We were told indirect at one point and then received information that perhaps an indirect rate was going to be altered again. I do not know whether we have gotten a final indirect or not.

Ms. **Hargrove**. We did hear last Friday that the Bureau has got 100 percent for their funding for indirect. We have not received anything official yet. That still remains to be seen. I really cannot say.

Mr. O'**Neal**. We were just told a week ago that the Bureau may only have 85 percent. You have to look at that closely. They include the 100 percent funding for themselves. If they have any costs incurred because of a contract or a position contract, they have allowed themselves 100 percent. All of the contract schools in tribal contracts are subject to 15-percent shortfall. We have been told that we can only draw down to 85 percent of our current indirect budget.

We were told last week that if they do that, and they hold it at 85 percent they will have to close down for the entire summer. I think that anyone that is familiar with schools knows that that is an important planning time and everything else. If they lay everyone off they will probably lose a number of their teachers and working staff because of it.

There is a good deal of problems within many schools in our association with respect to getting a contract cost indirect, whichever they call it, approved. We have several schools in the Navajo area that still have not reached final agreement with the Bureau. In our case we have, but I think that was just through luck.

Ms. **Hunt**. Do you get a lump sum for indirect costs?

Mr. O'**Neal**. Yes.

Ms. **Hunt**. Do you find that that works better than the rate?

Mr. O'**Neal**. In theory it does because it is supposed to give you a definite amount to work with. At the end, if they take part of it back, then you are right back to where you were with the rate. If they were to live up to their agreements and in fact give you the amount you negotiated, it would be far better. You do not have the accounting difficulties and you do not have the theoretical over recoveries and so on. It gives you an exact amount to meet your needs and then goes on with it.

They do have shortfalls and they make the tribes eat the entire thing and they take 100 percent.

I wanted to get back to one thing. Most of our previous private schools estimate that they get about 50 percent of what they actually need for operations and maintenance.

Ms. **Hunt**. Ms. Graham, would you have any comments on either problems with indirect cost or operations and maintenance that your school has had?

Ms. **Graham**. On our indirect costs we found that if we go directly to the Phoenix area office and negotiate with them it works a lot better for us. We stay there until it is done. If a proposal needs cleaning up we do it right there. That seems to work best for us even though it still does take time to get it. It does not meet the needs as to how they figure the amount on that. We are in the process of renovating our school, which should be completed this month.

Ms. **Hunt**. Did you get some renovation moneys from the Bureau?

Ms. **Graham**. Yes, we did.

Ms. **Hunt**. You have 35 students at the school?

Ms. **Graham**. Yes.

Ms. **Hunt**. Would you describe for us the situation that brought about the need to establish a school for 35 students? How were they treated in the public schools? How were they doing in the public schools? We have our staff director and our general counsel who went to visit there and they indicated that they were quite impressed with the determination of the tribe to have the school. What brought the community to establish their own school?

Ms. **Graham**. Students were not receiving the quality education that we felt was needed in the public school. The parents of the community decided to start their own school. At that time they removed all of the Indian students from the public school which took away approximately 95 of the students at that school. They threatened the parents by telling them that they would be put in jail.

Ms. **Graham**. When the parents put the students back in school the tribes started to look for other funding sources to start their own school.

There was prejudice; much prejudice. One teacher was quoted as saying, "Indian students do not learn above the fifth grade level, so why teach them at all." It was really a bad situation with the public schools. We did have a representative on the local school board but they had to travel approximately 180 miles to attend those meetings and at that time they could not afford to do that.

If we did attend the meetings, they did not listen to what we had to say about our needs. It was at this point that we decided to start our own schools.

Ms. **Hunt**. You mentioned that there were 95 students. Are there then 60 students still in public schools?

Ms. **Graham**. Ninety-five percent.

Ms. **Hunt**. Ninety-five percent. So 35 students made 95 percent of the public schools?

Ms. **Graham**. From what I understand, there are approximately 5 to 15 students attending that public school after the Indian students were taken from that school.

Ms. **Hunt**. I think that with budget cuts and with everyone looking at the cost/benefit analysis and that kind of thing, contract schools, particularly those with small student bodies, need to provide the kind of testimony that you have, Ms. Graham, as to why those schools are needed. If we just look at per-pupil expenditures, the situation does not look that favorable for having a separate school. Could I get a comment from you, Butch, and also from the folks from Puyallup, as to why, with costs soaring for education, should we have separate school systems for Indians?

Mr. **O'Neal**. As I understand the situation at Kickapoo, the students had always attended what was the public school at Powhatten. The percentage of Indian students increased as opposed to non-Indian students. When there got to be a majority of Indian students, people began taking their students out of the school. I am speaking of non-Indian people. It was generally understood that they would take their children out of the school and send them to other schools. This, of course, was never stated because they would prefer that they attended a school where the majority were non-Indian students.

It got down to the point where there were approximately 10 to 15 percent non-Indian students in the school. The non-Indian people in the community got together and voted to close the school and to send their own children to another school district, which would have meant a fairly lengthy bus ride.

The school district had always traditionally been consolidated into the Horton District and they had traditionally refused to offer bus service to the Indian students or to allow them to participate in the transportation so that they could participate in school activities.

It was at that point that the community and the tribe felt that they needed some input into their school which they were obviously never going to get. Even up to the point when it was 85 percent Indian there was only one Indian member on the school board, at the local school, the Powhatten School. We went through a lengthy process to get the right to take over the school and operate it as a 638 contract.

Ms. HUNT. It was previously a public school?

Mr. O'NEAL. Yes.

Ms. HUNT. Where would students go if there were no tribal schools?

Mr. O'NEAL. A good deal of them would probably end up in the boarding schools, either in Oklahoma or elsewhere. Some of them would probably go into the Horton District. They would be bused. It is quite a ways by the time they pick up all of the students and then bus them.

Ms. HUNT. Are the schools proposed to be closed?

Mr. O'NEAL. Yes.

Ms. HUNT. I have been to Kickapoo and I know that you have got some roads on the reservation that are not in very good shape. How passable are they in the winter time? Are they safe enough to bus the children in the winter to Horton?

Mr. O'NEAL. It is difficult. The roads are all very narrow gravel roads. They are narrow for cars, as I am sure they would be for a big school bus. Because they have a lot of ice storms, the roads get so slick that they cannot stand on them. It is dangerous when the Horton bus comes through there. They have ended up having a couple of accidents. Within the last 2 weeks, we have been getting a lot of rain. One of our school buses got stuck several times. It is difficult. We also run buses, but they run for a much shorter distance.

Ms. HUNT. Any comments from Puyallup on the need for a Puyallup tribal school?

Ms. GERINGER. I could give you a whole lits of reasons. Let me give you a few examples.

For one thing, in our response to the audit report, we have listed a number of concrete examples and your committee was supplied with the main body of the response. The appendix has all of the statistical data. That is available through Cathy Beacon's office. Norm Dix also has a copy of that.

One thing that is in there is taking a look at a sampling of our student body and looking at the absentee rate. When many of the students were in the public schools, the absentee rate was considerably higher than when they attended our schools. A number of reasons was given in the parent testimony as to motivation, prejudice, negative attitudes, and so on. As an example, we would give our students ID numbers and it is all listed in that audit report in the appendix. We had one student who was absent 23 days in kindergarten in the public schools. The parents transferred the child to our school and the child has zero absences. That is a unique example. Most examples are not quite as dramatic.

In every case we sampled, with the exception of one who had zero absences in the public schools and zero absences in our school, on our entire sample, the absentee rate was significantly higher in the public schools than when the students transferred and attended our schools. The sampling that we happened to take was at the elementary level.

In addition, the public schools have a high dropout rate. We have "a dropout rate," but our dropout rate is for a number of different reasons. It is not that the students are not succeeding in our school system. The majority of our students are succeeding. Those children that leave our system are leaving for a number of different reasons. One such reason would be custody changes. It would be a court action of some sort. Some of the students are placed in foster homes or moved totally out of the area.

Some of the students in the high school go on for GED completion because they have to support their family. There are a number of different reasons.

The dropout rate for native Americans in the school system as an example is twice as high as the dropout rate for the Caucasian population. None of our kids who have graduated from our school system are on public assistance. I am not sure that the public schools can make that same statement. One of the reasons that we are so successful is that we make our students feel that they are more than second-rate citizens. They are first-rate citizens in our school system.

The studies in California, as maybe you are aware of, have created massive individual and class action suits by minorities against the public schools for utilizing culturally biased IQ tests. We have one example that I put in my audit report—one of several examples where this has happened with our students.

In one case, we had an entire family, three children that were classified by the public schools as mentally retarded. Our policy is that when any student has a special services file, we automatically retest. All of our school psychologists are accredited school psychologists. They are attuned to cultural differences. None of the three children was mentally retarded. In fact, when we put them in speech therapy at Mary Bridge Hospital, they increased academically by leaps and bounds. The youngest student has made the largest gains within a 1 year timeframe with Mary Bridge speech therapy and with our school system.

Ms. Hunt. Thank you.

Mr. Bellecourt?

STATEMENT OF CLYDE BELLECOURT, PRESIDENT, FEDERATION OF NATIVE CONTROLLED SURVIVAL SCHOOLS, AND CHAIRMAN, HEART OF THE EARTH SURVIVAL SCHOOL, ACCOMPANIED BY EDWARD BENTON-BANAI, EXECUTIVE DIRECTOR, RED SCHOOL HOUSE, ST. PAUL, MINN.

Mr. Bellecourt. Mr. Chairman and members of the committee, my name is Clyde Bellecourt. I am a member of the Mississippi Onishnisnobe Nation, designated by the Federal Government as the White Earth Chippewa Tribe reservation.

I am testifying before you today as chairman of the Heart of the Earth Survival School in Minneapolis, Minn. I am one of the founders of this school. I am also speaking as president of the American Indian Opportunities Industrial Center, an adult training program that was developed just 2 years ago in the city of Minneapolis. I am also coordinator of the Federation of Native Controlled Survival Schools, a national network of 18 schools that serve Indian children.

With me today is Edward Benton-Banai. Mr. Benton is executive director of the Red School House in St. Paul. He is a member of the federation but, more importantly, he is the spiritual and traditional director to the survival school system.

Our schools are sisters and we, Mr. Chairman, are brothers. Our job for over 10 years has been the education of American Indian people. It is from this perspective that we are testifying before this committee today.

I have with me documents and written statements that we are asking the committee to accept for its report. We have given the subjects of this hearing consideration equal to the seriousness with which we regard Indian education in this country today.

It is probably the single most important issue before our people. What we are and what we will become is decided through education. Culture and Indian identity have to be one and the same with education. We are here to relay the message of the survival school.

The documentation that I have brought here today is the history of the Red School House and the Survival School. I have another document dealing with the Federal responsibility relationship to Indian education. I have another document that covers the formation of the Federation of Native Controlled Survival Schools which was formed to bring about parental control and community control over Indian education.

I have documentation relating to elementary and secondary education. The high dropout rates and the high population of Indian youths in correctional systems throughout the State of Minnesota is also contained in this material.

We also have information on adult education; vocational education with particular emphasis on the prison program that we have initiated in the State of Minnesota which covers all the correctional institutions which is funded under title 4. I believe it is the only prison program in the country that is funded.

We also have information on self-determination. In the early development of the Indian movement it was recognized in the city of Minneapolis that education should be one of our No. 1 priorities. Even though we developed a program and a proposal and did a lot of organizing within our community to develop an Indian-controlled school board, it did not become a reality until 1971. We were faced with a situation in Minneapolis where we found three young boys who were all brothers in the same family being taken away from their family by the juvenile court. They were going to be put out into foster homes and their parents were going to put in a workhouse for 6 months for contributing to the delinquency of a minor.

They would not allow their children to go back to the public school system because of the racism that they were facing every day and the beatings that they were taking every day on the way home.

In response to that, American Indian Movement opened a school called the American Indian Movement Survival School No. 1. Their address is 1335 East Franklin in Minneapolis. Within a month's time we started to receive recognition from the juvenile court system. They did not have an alternative. They had no alternative other than the public schools, training schools, diagnostic center and reformatories.

As soon as they found out that there was an effort within our community to take care of our young people, the courts immediately started to recognize that effort.

Finally in 1972 we received a grant from the Office of Economic Opportunity and some startup moneys from the Bureau of Indian Affairs to do studies and to develop the program and get it underway.

Before we could even receive those moneys that were granted, not only to the Heart of the Earth Survival School and the Red School House, but a health program, the Federal Government came in following the occupation of the Bureau of Indian Affairs and deliberation in 1973. They made charges that over $400,000 of Federal funds were being allocated to the survival school system and were used for the military purposes of Wounded Knee and the Trail of Broken Treaties.

They also stated that in our schools they were teaching nothing but guerrilla warfare tactics and how to overthrow the Federal Government.

Within 2 months after the formation of our school we became known as communists, radicals, militants, and so forth. However, in 1973 we filed suit against the Federal Government from Richard Nixon all the way down to local school board superintendent of schools, John B. Davis, in Minneapolis.

That particular suit was heard under a Federal judge, Miles Varge. After several days of testimony, it was proven that not one single penny, in fact, none of the money that was allocated by the Government at that time ever reached our hands. It was held up in the banks.

After listening to all of the testimony and finding, the media itself turned against the Government and wanted to know why they were picking on these two particular programs. In a last ditch effort to discredit the survival school system that had been established to help young people in Minneapolis-St. Paul, the charges of guerrilla warfare was brought to light by the FBI.

These charges were denied. Through a Federal court order, three clinical psychologists were brought into our schools to question our children, members of the community, parents, staff and the overall community leadership. We fought this very strongly. We told our children that they would never have to speak to a psychologist again.

We allowed them to come into our school. Following an extensive study that was taken, it turned out to be a blessing in disguise. They found out that with the introduction of Indian culture—traditions, values, language and given identity and pride—that these so-called slow learners, scholastic retards and incorrigibles and all of the other names that they tag on to them when they dump them on our doorsteps, were running anywhere from one half grade to one and one half grade levels higher than the various schools and children that were in the same categories that they dropped out from.

Judge Miles Varge's decision was that OEO should grant the funds direct to the schools. Not only did he condemn OEO in its relationship with our schools and what they attempted to do, but he directed that the funds be unfrozen immediately.

He said that these schools developed out the efforts by the Indian community to meet the unique cultural and educational demands of Indian children, particularly those who have experienced trouble in adapting to the public school systems.

The school staff attempted to develop a closer individual relationship between teacher and student and featured curriculas affecting Indian culture and tradition. Such school performed an important public service in the area where the public schools have often been difficult.

The parties stipulate that there is a great community need for this type of school and that the school operated by the plaintiffs were fulfilling this need and providing the students with a good education.

In spite of the lack of funds, the schools continued to develop. With the start of title 4 funding in the fall of 1973 a major source of grants became available to schools. They received a grant in 1973 and 1975. Both were named as model schools under title 4 and provided the first of 2- or 3-year grants in 1976.

Additional efforts in education and community services included adult education funded by title 4 part c at both schools. The juvenile diversion programs; the Red School House; teacher and counseling training; title 4 to the Red School House; and humanities programs on the local level.

In 1973 we received a grant from the campaign for human development to hire a lobbyist and start lobbying for bilingual, bicultural legislation within the State of Minnesota.

In 1977 the American Indian Language and Cultural Act was passed by the State legislature. The legislature finds that a more adequate education is needed for American Indian pupils in the State of Minnesota. Therefore, pursuant to the policy of the State to share equal opportunity to every individual is the purpose of the Act, to provide for the establishment of the American Indian language and cultural education programs.

In the past 6 years we have been working very closely with 18 other schools that have started, both on reservations in urban areas throughout the Western States. We are working with two in Canada. Just recently a survival school opened in Puerto Rico. I believe it was a month and a half ago.

I also want to go back to 1973 in relationship to the American Indian Movement. The American Indian Movement delivered to the President of the United States a carefully constructed document called the "Twenty Point Solution Paper." This paper is part of a negotiation during the occupation of the Bureau of Indian Affairs. The points themselves were deliberated and formulated at a convention of American Indians from reservations, tribes in rural areas, cities and towns.

First they went through education processes from jurisdiction responsibilities of Indian communities and from the powers of Indian self-government. Failing yet to restore authority to our people except through increased funding of all advisory and contract delegated laws or through control to conduct schools on the condition—or otherwise committed by popularity.

We have in the past 10 years carried forth much of the Indian education that has been enacted since 1789 when President Washington promised education of the American Indians in exchange for a billion acres of land.

We feel also that we are following title 4 legislation and bringing about a control school board. We know that our two schools are the only two parental controlled school boards in the country. The funding comes directly to us. It does not go to the public schools system. It does not go to the University of Minnesota or any other resource that we act as an advisory board to. We elect our boards of directors on a yearly basis. Our boards of directors come from the parents of the students themselves.

It is a requirement within our schools that the parents themselves spend at least 2 hours a week within the school setting, whether it is just to come into the hallway and be part of that particular instruction on that particular day. We have tremendous community support for the efforts that have been put forth.

We also want to say something about the current crisis developing in the city of Minneapolis and throughout the State of Minnesota, particularly in the area where our two schools are located. As of this summer, 18 interschools will be closed down. This is going to have a tremendous impact on the Indian community.

Mr. Green, the superintendent of the Minneapolis public schools, stated that special considerations are going to be given to the Indian people because he recognized the tremendous problems that the busing is going to cause in our particular community.

Better than 50 percent of the Ojibwa population in the State of Minnesota do live in an urban area of Minneapolis and St. Paul. We are very concerned about the closing of these schools. We know that already they have had over 80 requests—we do not have room to accommodate children who do not want to be bused out of their respective communities.

We have also been working for the past 5 years in the correctional systems in the State of Minnesota—all of the institutions—juveniles, adults, men and women. This has been a tremendous resource not only for our school and our community, but particularly for our brothers and sisters that are in these institutions throughout the State. Through their involvement in Indian education, and cultural and traditional events, they have since been able to bring medicinemen, healers, sweat lodges, and the recognition of the pipe and drum.

I want to make a few comments in relationship to another effort that had been put underway in Minneapolis because of the known high dropout rate and the high unemployment rate. Many of our young people who are graduating today from both the public school system and from the survival school system end up in the unemployment rolls and many times on welfare. Knowing this, we formed a partnership with the government and the business community and the Indian community got together and developed an American Indian Opportunities Industrial Center.

At the present time we are training 40 students in clerical skills, accounting and word processing. We have done some software and some computers. We are going to be advancing in all of these areas. It has been proven by tests that have been taken that the students in our schools are running far above and ahead of those that have been tested in other vocational settings throughout the Twin Cities area in the State of Minnesota, which historically has discriminated against Indian people within those particular schools.

We think that this is a very successful program. It is not one that is going to turn people out with skills that do not have a job. We have confronted industry, the business community, the city of Minneapolis, and the State of Minnesota and we have several commitments. We let it be known that where we come from that civil rights, equal rights, human rights, and affirmative action is not strictly a white and black issue. Indian people must be included also. When they do not include us, we have taken the initiative to develop our own programs to overcome that particular problem.

We do have commitments today from business and government for commitments for jobs for people fulfilling these educational opportunities in both programs.

Ms. Hunt. You are about to end?

Mr. Bellecourt. I am closing, yes.

Ms. Hunt. All right.

Mr. Bellecourt. In closing I would like to state our case for the criticism that arose regarding the major agency assigned to deal with Indians, the Bureau of Indian Affairs. Indian people justly claimed that corruption and injustices were perpetuated against such bureaus as the Bureau of Indian Affairs. There is much debate about the placement of Indian education programs under the Bureau of Indian Affairs.

An agency viewed with distrust and scorn by many Indian people is the way that the Bureau of Indian Affairs is seen by the Indian people. The impact of such a move would be especially devastating for urban Indians who have historically and at present no economic relationships at the Bureau of Indian Affairs.

It is a primary concern that programs plan, develop, and be maintained by urban Indians for urban Indians, not be forgotten or relinquished in favor of funding for reservation programs in these hard economic times.

The urban and reservation Indian population are approximately evenly divided. In Minnesota the urban Indian population may be slightly greater in number than the reservation population. In any case, many, if not most urban Indians claim cultural ties and enrollment status where possible on their home reservations.

In Minnesota and elsewhere urban Indians fear negligence by the Bureau distribution of program dollars simply because we have been so long been ignored.

It is the recommendation of the Federation of Native Controlled Survival Schools and its member schools that the Bureau of Indian Affairs not be given responsibility for Indian education. Progress in education has been made in the absence of the Bureau. The Bureau's involvement at this time would only constitute a serious regression from current achievements. Thank you.

Ms. HUNT. Thank you. Mr. Benton did you have any comments?

Mr. BENTON. My name is Eddie Benton-Banai. I am Ojibwa fullblood enrolled at the reservation in northern Wisconsin. I am the founder and the director of the Red School House and I would just like to add my support to all of the testimony given by Mr. Bellecourt on behalf of the Survival Schools Federation of Indian Controlled Schools.

I would wish to add very briefly some reading from a letter that was sent to President Ronald Reagan from the Red School House on February 27, 1982. To quote from that letter:

> The Red School House is an alternative school that is Indian controlled. The board consists of American Indian parents of the community. The school is an alternative designed to alleviate the high dropout pushout rate of American Indian students from the public school system.

The dropout rate is over 50 percent here in St. Paul and is about the same rate statewide. Nationwide the Indian student dropout rate at the junior and senior high school level is 47 percent, according to studies conducted by the U.S. Department of Education, Office of Indian Education.

The Red School House is in its 10th year of operation and is a successful alternative survival school. I wish to bring the school to your attention because it is a great example of Indian self-determination and it is a visible and viable testimony to the American taxpayers as to how a portion of our taxes are spent domestically.

In addition you should be aware of how funds of this nature do provide the American Indian people, a distinct disadvantaged minority of America, a chance to create and innovate viable solutions. The Red School House is funded by title 4. That is a part of the letter that went to the President this February.

I can only add at this point, as a member of an enrolled tribe, as a parent, as a founder, as a director of a survival school, as a taxpayer, as a homeowner and as a card-carrying Democrat, my opposition to the move to move the Department of Education to the Bureau of Indian Affairs. I would like to thank you for this time and opportunity.

Ms. HUNT. Thank you, Mr. Benton and thank you again, Mr. Bellecourt. Without objection Mr. Bellecourt, your entire statement will be added to the record at this point.

[The statement follows. Testimony resumes on p. 262.]

PREPARED STATEMENT OF CLYDE BELLECOURT, CHAIRMAN, HEART OF THE EARTH SURVIVAL SCHOOL, MINNEAPOLIS, MINN.

Mr. Chairman and members of the committee, my name is Clyde Bellecourt. I am testifying before you today as chairman of Heart of the Earth Survival School in Minneapolis, Minnesota. I am also speaking as president of American Indian OIC—an adult training school. And the Federation of Native American Controlled Survival Schools—a national network of eighteen schools that serve Indian children. With me today—and I would like to introduce him at this time—is Edward Benton-Banai. He is the executive director of the Red School House in St. Paul, Minnesota and a member of the federation. Our schools are sisters and we, Mr. Chairman, are brothers. Our job for over ten years has been the education of American Indian people, and it is from this perspective that we are testifying before the committee today.

I have with me documents and a written statement that we are asking the committee to accept for its report. We have given the subject of these hearings consideration equal to the seriousness with which we regard Indian education in this country today. It is probably the single most important issue before our people—because so much of the future of what we are and what we will become is decided through education—because culture and Indian identity have to be one and the same with education—so we are here to relay the message of the survival schools.

I. HISTORY OF HEART OF THE EARTH SURVIVAL SCHOOL AND RED SCHOOL HOUSE

It is in our traditions as Indian people to view education as a cyclical process. Our concept that the elders, our greatest teachers, share their knowledge and experience with the young, who will themselves in turn someday become elders, has been carried from generation to generation. This concept of education has assured that Indian cultures and lifestyles will survive.

With the introduction to formal academic education and its corresponding values and methods into Indian life, our concept of education has become increasingly difficult to uphold and interpret. Our elders have all too often been relegated to lesser roles and positions, unable to teach the young whom they found, as well, to be incomprehensible. Indian children were—and until recently continued to be—taken from their homes and families to be institutionalized or otherwise oriented into non-Indian culture. In time, the adults for the most part had experienced mainly the non-Indian values and education. But this was no victory for the forces of acculturation; for a variety of reasons, Indians on reservations and in the cities remain a distinct and identifiable group—all too often viewed as a "problem" in American education.

From where the survival schools and their communities are today, it is possible to state the "problem" in a different light. It is more closely related to the great changes that affected Americans as industrial and consumer phases of economic life have changed the family, interpersonal life, and values. It remains a unique problem, but is one not to be confused with the Indian person or with Indian culture. The survival schools believe they have a response in a set of viable goals:

To involve Indian elders and family members in the education of their children;

To be, not involved in the community, but an instrument of that community; and

To recognize the need for a culturally-relevant set of teaching-learning methods, one that takes responsible account of tribal cultural diversity and individual potentials.

The two Native American survival schools in the Twin Cities were begun in response to high drop-out rates for Indian children in the public schools and an alarming incidence of juveniles being institutionalized. This became chronic in the decade of the sixties, when conservative estimates of the Indian population in the Cities indicated a doubling. Prison and juvenile corrections figures showed a disproportion of ten to one according to the numbers of Indian persons in the general population. Groups of parents utilized the existing vehicle of the American Indian Movement to establish a negotiating advocacy in the public schools, then to start new and different schools.

The Red School House was founded in early 1972, and started classes with 35 students in April 1972. It moved from one-room church to a former community center, then to its present school structure, increasing enrollment to over 120 per year. The Heart of the Earth Survival School was also incorporated that year, and was located in a succession of community buildings until it entered into a long-term arrangement to purchase a former church school. Funding was difficult and uncertain. An arrangement to receive funds from the Office of Economic Opportunity in 1972 was not completed, leading to a lawsuit heard by Judge Miles Lord. His decision, that the OEO should grant the funds directly to the schools, included these observations:

> These schools developed out of the efforts by the Indian community to meet the unique cultural and educational demands of Indian children, particularly those who have experienced trouble adapting to the public school system. The schools, staffed largely by Indian professional personnel, attempt to develop a close individual relationship between teacher and student and feature curricula reflective of Indian culture and tradition. Such schools perform an important public service in an area where the public schools have

> often been deficient. The parties stipulate that that there is a great community need for this type of school and that the schools operated by plaintives were fulfilling his need and providing their students with a good education.

In spite of the lack of funds, the schools continued to educate. As the decision went on to note, two alternative schools were functioning:

> Red School House provides both elementary and secondary education and has been in operation since February 1972. At the close of the 1972–73 school year, there were about 40 full-time and 25 part-time students. Survival School (later named Heart of the Earth Survival School) was started in January of 1972 and also offers both elementary and secondary education. It had about 55 full-time students at the end of the 1972–73 school year.

Cooperation with the public school systems came early in their development and is noted in the decision.

With the start of Title IV funding in the fall of 1973, a major source of grants became available to the schools. Heart of the Earth received a grant in 1973; Red School House in 1975. Both were named as model schools under Title IV and provided the first of two three-year grants in 1976. Additional efforts in education and community service included:

Adult Education—funded by Title IV Part C at both schools.
Juvenile Diversion—L.E.A.A. at Red School House.
Teacher and Counselor Training—Title IV, through Red School House.
Humanities programs—Heart of the Earth and National Endowment.

In addition to these Federally-developed programs, both schools were instrumental in the state law for Indian cultural and language education, now unfortunately greatly reduced in the present Minnesota budget crisis.

In the ten years of operation, the schools have had primary educational responsibility for over 1,000 Indian youth, and have served many more, as well as their families and the general community. Its educational premises have been stated above; the concept of a cycle in education has also been taken as a model in community service.

II. INDIAN EDUCATION: A FEDERAL RESPONSIBILITY

In November, 1973, the American Indian Movement delivered to the President of the United States a carefully constructed document called, "The Twenty Points Position Paper." This paper was part of negotiations during the occupation of the Bureau of Indian Affairs. The points themselves were deliberated and formulated at a convention of American Indians from reservations, tribes, rural areas, cities and towns. On Indian education, point 20 stated:

> Of treaty provisions standard to most treaties, none has been breached more viciously and often as those dealing with education—first by withdrawing education processes from jurisdiction and responsibility of Indian communities, and from the powers of Indian self-government—and failing yet to restore authority to our people, except through increased funding of old advisory and contract-delegation laws, or through control to conduct school in the conditioned forms and systems devised by non-Indians, or otherwise commended by current popularity. At minimum, Indian Nations have to reclaim community education authority to allow creative education processes in forms of their free choice, in a system of federally-sanctioned units or consolidated Indian districts, supported by a mandatory recognition of accreditation in all other systems in this land.

In 1976, Public Law 93–638, "The Indian Self-Determination and Education Assistance Act," was passed. It stated simply:

> (c) The Congress declares that a major national goal of the United States is to provide for quantity and quality of educational services and opportunities which will permit Indian children to compete and excel in the life areas of their choice and to achieve the measure of self-determination essential to their social and economic well being.

Also stated in the law were the findings of Congress:

> (b) The Congress further finds that
>
> (1) true self-determination in any society of people is depended upon an educational process which will insure the development of qualified people to fulfill meaningful leadership roles
>
> (2) the Federal responsibility for and assistance to education of Indian children *has not affected* (emphasis added) the desired level of educational

achievement or created the diverse opportunities and personal satisfaction which education can and should provide and

(3) parental and community control of the educational process is of crucial importance to the Indian people.

These recent declarations and legislated reforms have a history as long as that of the United States itself.

For example, a very brief review of national legislation shows:

1789—President Washington and the Senate promised education to the American Indian in exchange for one billion acres of land.

1802—Act to promote civilization among Indians.

1819—Act to prevent the decline of Indian civilization.

1870—Act appropriating funds for Indian education.

1882—Act stating abandoned military posts could be used for Indian schools.

1897—Appropriations for Indian education in sectarian schools.

1921—Snyder Act—authorization to the Bureau of Indian Affairs to direct, supervise and expend funds appropriated by Congress for land management, welfare, and education of Indians.

1924—Indians become American citizens.

1934—Johnson O'Malley Act: funds to states for Indian education, health, and welfare. (Oklahoma excluded)

1936—JOM contracts to states. (Oklahoma included)

1950—Navajo-Hopi Rehabilitation Act: for construction of schools and dormitories.

1953—Authorized aid to schools with a high percentage of non taxable Indian population (Public Law 815, 874)

1972—Indian Education Act

1974—Educational Amendments Act

1975—Indian Self Determination and Education Assistance Act

Missionaries in colonial times made the first non-Indian effort to educate Indian children according to the tastes and philosophies of western civilization. Their attempts to assimilate Indian people centered on Christianization. Almost with the birth of the United States government, a treaty with the Oneida, Tuscarora and Stockbridge Tribes stated that the United States agreed to provide a person to "instruct some young men of the three nations in the arts of the miller and sawyer, and to provide teams and utensils for carrying on the work of the mills."

From that point to the end of the treaty-making era in 1871, educational provisions were common in the various treaties entered into between Indian tribes and the United States.

In Minnesota, the Chippewa Treaty of 1854 contains extensive provision for education. Indian education was further provided for in the Civilization Fund Act of 1819 (see chronology above). The Act authorized the President to employ teachers to instruct Indians "in the mode of agriculture suited to their situation; and teaching their children in reading, writing and arithmetic."

In 1865, Congress established a joint special committee to investigate the conditions of Indian tribes in America. The report covers all areas of involvement between the Federal government and Indian people, stating in part:

> All experience has demonstrated the impossibility of educating Indian children while they are permitted to consort and associate with their ignorant, barbarous and superstitious parents. It is admitted by all teachers who have ever made the experiment that the vicious home influences of the Indian lodge or wigwam during the recess of school hours are more than sufficient to counterbalance and destroy all that is taught to the pupil during the period allotted to study.

John T. Sprague, Colonel of the 7th Regiment of the U.S. Infantry, disagreed. He was opposed to manual labor schools and boarding schools in general:

> In teaching the Indians, restraints and deprivations must be avoided; confinement, and a sense of limitation to his head, feet and hands, make him uncomfortable. . . . Instead of teaching an Indian boy his letters within the limits of a schoolhouse, confined for hours, I would take him to the woods, and with a bow and arrow, or a rifle, instruct him to shoot at A, B, or C, and gather around him parents and sisters to see it done. In this manner, instruction can be enlarged by experience and tact, until the Indian unconsciously learns to read and write.

The litany of ills heaped upon Indian education need not be repeated here, as the record well shows (a commentary on the report-writing ability of the various Indian agents and commissioners of the nineteenth and early twentieth centuries). Notable is the report of Lewis Meriam, in its survey of Indian Affairs. The corruption and self-dealing can still be traced by the bureaucratic snarl which makes up the considerably layered administration of the Bureau of Indian Affairs, even today.

Offering the most promise for self-determination, community control, and parental involvement in Indian Education is the Indian Education Act of 1972. But again, a court battle was necessary to get this measure of reform's funds released to an anxiously waiting American Indian constituency. The Act's history included a series of compromises in Congress, the work of a study on Indian education started by Senator Robert Kennedy and finished by Senator Edward Kennedy, under the jurisdiction of the Special Senate Subcommittee on Indian Education.

The Indian Education Act, in its brief nine-year history, has opened doors through which Indian community creativity and talent have passed, with new ideas, new programs, and although meager dollars, with funding to try approaches to the education of American Indian children and adults which will someday prove to have had more lasting results that the previous one hundred years of attempts to acculturate and civilize the peoples of the many nations that make up the diversity of tribes and native cultures of this country.

The history of treaties, laws, and Federal appropriations strongly support a continued Federal responsibility for Indian education. Continued Federal responsibility must have as its base the support of the American Indian people in the design, context, and levels of assistance if that responsibility is to have meaning and substance.

III. FEDERATION OF NATIVE AMERICAN CONTROLLED SURVIVAL SCHOOLS

The Federation of Native American Controlled Survival Schools was formed in September, 1975, at the first national gathering of all the then-existing survival schools. Its intended purpose was and continues to be to serve as an advocacy agency and a technical assistance center for Indian controlled education programs. Although the Federation has itself never received Federal funding to pursue its educational advocacy, it has aided numerous other Indian people and projects in the procurement of such funding through technical assistance in proposal writing and interpretation of federal regulations, as the Federation grew to its present 18 members.

The affiliation of Heart of the Earth Survival School and the Red School House with the Federation has been consistent and positive. Being the oldest and most fully developed of the survival schools, these two have provided the impetus for establishing the Federation, sharing their expertise with others through this vehicle.

In the early 1970's, the Red School House and Heart of the Earth Survival School began approaching the Minnesota State Legislature on the issue of state support for Indian education. It was felt at that time that many state governments default in their educational responsibilities to Indian children as citizens through deferring to the federal treaty or trust relationship. The survival schools maintained that Indian education is a dual responsibility shared by both the state and federal governments. In approaching the legislature, the schools hoped to enlighten members on the unmet needs of Indian children and thereby solicit a commitment to meaningfully address the needs of this underserved segment of the state's school-age population. Initial efforts by the schools provided the basis for legislative lobbying made possible by private grants to the Federation of Survival Schools.

In May of 1977, the American Indian Language and Culture Education Act was passed in the Minnesota legislature. Through the efforts of the Federation, Minnesota became the first state to recognize the validity of cultural education for Indian children. The first appropriation of $600,000 was made to support eleven projects, urban and reservation. Unfortunately, since that first year, the appropriations have steadily dwindled. A hard-won battle is once again being lost as budget concerns take precedence over a demonstrated need and a prior commitment. Often, the survival schools are asked by grant officers what other types of support can be secured for our programs. Our response must be one of continuing commitment to gain Federal, state and private support for our efforts, although such support is all too often short-lived.

IV. AMERICAN INDIAN ELEMENTARY AND SECONDARY EDUCATION, JUVENILES IN THE COURTS, AMERICAN INDIAN FOSTER HOMES, PUBLIC SCHOOL CLOSINGS

Prior to the Indian Education Act of 1972, both Heart of the Earth Survival School and Red School House were founded. In 1970 and again in 1971, the American Indian Movement placed education at the top of a list of priorities, along with tribal sovereignty and the validity of treaties as compacts between governments: the United States and the Indian nations.

Two areas of immediate importance were and are elementary and secondary education. Working closely with families, and bringing parents into the first classrooms as teachers, the primary foundation of the survival schools has been the children, parents, and community.

The Articles of Incorporation of the survival schools attest this commitment. Before the Indian Education Act was enacted, parents were asked to be decisionmakers in the programs that developed to teach their children.

Secondly, the principles of the survival schools' methodology were incorporated and have continued to be the cornerstone in each Indian child's education plan. These included the circle as a concept of not only education, but of life; the grouping of children according to need and not social advancement; the inclusion of the teacher in the circle of learning; the placement of elders as the respected life teachers in the center of the curriculum; the development of student councils for decision-making; and the teaching of language, culture, and Indian identity which places the child in the context of a participant—not an observer of his own culture.

From these concepts and principles, later with funding from the Indian Education Act, came the programs and special services to Indian children that have marked the development and vigor of the survival schools.

Early childhood education is an important segment in the survival schools' overall plan. Very young students are surrounded with an environment that is pleasant, culturally rich, and consisting of a learning experience which is fortified with Indian language, custom, and culture.

As an example, Heart of the Earth Survival School shows how educational problems in some students are approached. In the spring of 1979, a special learning teacher took over the reading and math curriculum. Inservice sessions were given to all teachers in administering and evaluating an Informal Reading Inventory in order that existing materials could be evaluated and used at the student's reading level. Next, a reading assessment was done which involved all teachers for reading and math. Company representatives were brought in and textbooks were reviewed. In 1979–80, the school began building up its management program to better evaluate student progress. The school used the Rebus Reading program for nonreaders below 4th grade, and the SRA "Cracking the Code," for pre-primer readers in high school. The test results were exciting. High school students were getting excited about the progressive curriculum. Top academic students were trained as peer tutors. Through this kind of carefully-constructed plan, the school noted at the beginning of the 1980–81 year that over 50 percent of the students were achieving at grade level. The Life Skills test was administered in September and May. 90 percent of the students showed progress in English and Reading Skills. 85 percent of the students scored the same or higher in Math Skills. Each student through grade 10 who was in remedial reading had progressed one reading level. Most progressed two levels. 85 percent of students in basic math have shown substantial progress. The school is developing a program of micro-computer assisted basic skills for the 1982–83 school year.

All of the survival school students once came from the public school system. Now, some students have gone to the survival schools all of their school years. The schools continue to enroll students from other systems and continue to extend concentrated programs in basic skills, as that described above, to meet the needs of its students.

It would be perhaps exciting to state that the number of juveniles in the courts has decreased because of the work of the survival schools. But the population at risk continues to be high and the number of cases the schools can handle is small compared to the need. But throughout the history of the schools, assisting juveniles in the courts and their families has been part of the informal curriculum of the schools. Partly due to the urging of the schools and their Indian counselors, increasing numbers of Indian families are qualifying as foster homes for Indian children. The number has substantially risen from zero to estimates of 70 new Indian foster homes. These actions are a necessary part of a survival school plan, because the schools exist to be partners to parents and friends to families with the objective of providing a meaningful education to every Indian child possible. And with the goal that the child's education take place within the context of Indian culture as a positive experience so that the child can take his/her place in the community as a contributing member.

There are a number of public schools that will close this year. In Minneapolis, for example, 18 schools will close. Indian students will be placing higher demands than ever on the survival schools. The ability of our schools to help these children will bear a direct relationship to the levels of funds available to us to provide our service. It is not only ironic but foolish in the extreme that a "run on the bank" holding precious dollars for Indian education is likely just when meaningful elementary and secondary education in our schools has not only taken root but is branching into healthy education for a healthy Indian future.

V. ADULT AND VOCATIONAL EDUCATION

In the early 1970's, the Survival Schools initiated the task of educating Indian children in Indian controlled schools within the urban settings of Minneapolis and St. Paul. Although similar efforts were in progress in a few reservation areas, our metropolitan Indian community was the first to respond to the educational needs of Indian children who were growing up "on the streets." In the establishment of the schools, there was no tribal structure within which to integrate the decision-making process. The structure for Indian control of education had to be newly formulated to include Indian parents. Heart of the Earth Survival School and the Red School House thus became the first schools to truly and fully embody the concept of parental self-determination in Indian education.

Parental self-determination in the education of Indian children has requirements of its own. Through experience, the schools soon learned that Indian adults cannot be free to live competently nor to determine priorities and make effective judgements regarding the education of children—their own or others—until their own educational handicaps are addressed.

The failures of mainstream education have contributed to a number of social conditions plaguing Indian adults in this metropolitan area as well as across the country. Chronic unemployment, low median incomes, high suicide rates, high alcoholism rates, and disproportionately large prison populations reflect the destructive programming of Indian adults, a process first encountered by many Indians in the mainstream public education systems.

Recognizing the cyclical relationship of adult education to the education of children, the survival schools sought and were granted funds to provide educational services to Indian adults. Problems to be addressed through the projects included functional illiteracy rates (quoted by the Minnesota State Planning Agency to be 25 percent for state Indian adults) and an average grade level completion of 10 years (12 years for the Minnesota general adult population). Additional needs were found to exist within the prisons, where Minnesota Indians—a mere 0.9 percent of the population—comprised 10 percent of the prison population. These Indian adults, underserved or ignored by mainstream education agencies, were determined primary clientele for services through the Heart of the Earth Survival School Audit Program. This education program became the only Title IV-funded program to serve incarcerated Indian adults.

The alternative approaches utilized by the Red School House have included incorporation of cultural curriculum, linking adult basic education to life coping skills and graphic arts, and the use of computers for learning academic skills. In all, the two survival schools have been equally successful in their application of alternatives in adult education as they have been in elementary and secondary education. The Minnesota State Literary Council indicates that Indian adults will not participate as readily in non-Indian sponsored programming as do other racial-ethnic groups, clearly demonstrating the need for the existence of Indian sponsored and oriented adult education programs such as those of the two schools. These programs view Indian curriculum materials as central and are staffed primarily by Indian persons.

Adult education programming sponsored by the survival schools is possible because of the commitment of Indian persons and organizations, and because of the Federal commitment in this area. Without the Federal Title IV funds, their continued existence would be questionable. The State of Minnesota allocates its adult education monies only for vocational sites, and obviously, the survival schools do not meet that criteria. Bureau of Indian Affairs adult education funds have been restored, but future availability of the funds is unknown. Historically, BIA funds have been earmarked for tribes, and in this economically difficult time, tribes are even more reluctant to sponsor and subsidize programs in urban areas.

A similar set of difficulties exists in the vocational education area in Minnesota and across the nation. With recent cutbacks in scholarship funds and institutional set-aside funds, fewer Indian adults are able to enter or complete training programs. Minneapolis has its own vocational training program in the American Indian OIC which has survived its first full year of training with minimal (6 percent) federal dollars. This program has graduated 16 people and is training 40 others in entry level clerical skills and provides guaranteed placement for graduates through corporate sponsors. As local unemployment rates for Indians have been higher than for the general population, and as cutback in many businesses and industries have often removed minority persons first, this program is a great asset to the community. Its survival has required a training plan that looks to personnel needs in the next 5 years. But continued survival map also be linked to an on-going commitment of government funding. It is difficult and self-defeating to bring Indian adults into the classroom for training when the day-to-day existence of the programs in jeopardy.

Like the Survival Schools, the American Indian OIC was born of the desire and need for Indian control in Indian education. Community needs have dictated the development of these programs. Federal commitments to Indian self-determination must ensure their survival.

VI. SELF-DETERMINATION IN THE CURRENT CONTEXT

The American Indian Policy Review Commission, which submitted its report to the Congress in May, 1977, included several task forces in its study. Of particular note is the draft report on urban Indians, because it reflects on a peculiarity of Federal budgeting which has come to haunt us once again:

> Another factor (in Indian migration to cities) was undoubtedly the stringent economy measures of World War II and the start of the Cold War which had created a climate conducive to attacks on Federal spending for Indians and which was one of the sources of the movement toward termination. The Truman and Eisenhower Administrations, forged by the Cold War and characterized by an emphasis upon the validity of vast military spending and an equally sharp reduction of spending on people, in effect imposed an unrealistic ceiling on services to Indians. In a Federal budget where 61 cents in every dollar were devoted to girding for the Cold War, basic programs of all kinds—housing, support of the elderly, etc.—were suspended or drastically reduced. Given the continuation of the kind of outrage evidenced in the 1943 Survey of the BIA, at the thought of spending some $60.00 per Indian "while there was a war going on," there was simply no money set aside to fulfill a concept like the trust responsibility.
>
> This invites the question whether the theory of surplus Indians was based upon a clear understanding of the economic limitations and potentials of the reservation or upon a peculiar kind of budgetary distortion that undermined all governmental expenditures at the time. If the present 26 percent (1976) expenditure of the annual budget to support the military had been in effect at the time of the relocation program, rather than the 61 percent then prevailing, there would have been less temptation to define 40 percent of the Indians as surplus and (to) subject many of them to a termination of services.
>
> The Cold War was one of the arbitrary but powerful influences shaping the early governmental attitudes toward off-reservation Indians; gaining intensity at the same time as the first major and sustained push by Indians toward the cities, it undoubtedly contributed to freezing the government into its fixed attitude of denying needed assistance.

The Vocational Training Act of 1956 had a history which included the supporting Senate Report which stated that the act would "extend to Indians the same service already available to Americans in general."

Three out of every four Indians who received training under the Act resided in various cities during the training. So even though the government recognized a need to provide services to Indians in an off-reservation setting, the basis of the assistance had nothing to do with recognition. The services were not viewed as a right to which Indians were entitled, rather, they were a further method of reacting to a problem. This peculiar example of Indian education combined with a sort of "individualized termination plan," is perhaps the saddest recent attempt at education with a hidden purpose. But it points out a lesson to be learned: control of Indian education programs must be in a framework of self-determination to be effective and to have lasting results—leading to long-term employment and family security.

Throughout the mainly recent history of Indian education via self-determination far more encouraging results have been achieved by community-based programs. Even Indian Education Act programs in the public schools partners Indian Parent Committees with school districts to develop, administer ,and evaluate programs to supplement the basic educational fare of public school students.

The greater portion of evidence of these successes is yet to be tallied, but it is clearly apparent to the survival schools that local control provides the "stake" in the quality and quantity of education the Federal government can be proud of.

From a modest $18 million, the Indian Education Act appropriation has grown to $80 million. Still not enough, but a good beginning for a government with such a wretched history of Indian education mismanagement.

A further step in the right direction will be the re-authorization of the Indian Education Act with the proviso that the survival schools and other alternative schools be established and maintained to do what they do best: provide self-determination at a community level and carry out the best intentions of the Indian Self-Determination and Education Act.

Federal support for the survival schools is the next logical step for the evolution of an Indian Education Act that promises to evidence real change and upward movement among the people who enjoy the only Federal trust relationship in the history of this nation.

VII. CASE FOR NOT PLACING INDIAN EDUCATION UNDER THE BUREAU OF INDIAN AFFAIRS

In the late 1960's and early 1970's, when Indian people began to protest, the first and most adamant criticisms arose in regard to the major agency assigned to deal with Indians, the Bureau of Indian Affairs. Indian people justly claimed that corruption and injustices were perpetrated against tribal people either by Bureau officials themselves or by Bureau officials in concert with others attempting to usurp Indian lands and undermine the Indian way of life. Such Bureau implementations as the agency superintendent, the BIA boarding school, Bureau leasing of tribal lands without tribal consent are part of the historical legacy that cannot be disclaimed.

Today there is much debate about the placement of Indian education programs under the Bureau of Indian Affairs, an agency viewed with distrust and scorn by many Indian people. The impact of such a move would be especially debilitating for urban Indians who have, historically and at present, no economic relationships with the BIA.

It is of primary concern that programs planned, developed, and maintained by urban Indians for urban Indians not be forgotten or relinquished in favor of funding for reservation programs, in these hard economic times. The urban and reservation Indian populations are approximately evenly divided. In Minnesota, the urban Indian population may be slightly greater in number than the reservation population. In any case, many if not most urban Indians retain cultural ties and enrollment status where possible in their home reservations. In Minnesota and elsewhere, however, urban Indians fear negligence by the Bureau in the distribution of program dollars, simply because we have so long been ignored.

It is the recommendation of the Federation of Native American Controlled Survival Schools and its member schools that the Bureau of Indian Affairs not be given responsibility for Indian education. Progress in education has been made in the absence of the Bureau, and their involvement at this time would only constitute a serious regression from current achievements.

Ms. HUNT. I have just a couple of questions. How many students are served in the Red School House and how many at Heart of the Earth?

Mr. BENTON. The number of those who are served on a yearly basis do not really reflect. There are two different figures. The total served in the school year 1981–82 was 253. However, only 142 of those children were considered full-time students. The reason that there are two different sets of figures is because the survival schools are used as a resource by the juvenile court, by the department of welfare, and the like.

Many children are sent to the Red School House for a period of adjustment. In many instances, the courts will send a child to the Red School House during a probation investigation or a presentencing investigation of some sort. The figures do not reflect a dropout rate as such, but rather it indicates how many Indian children are served totally in one capacity or another during a full school year.

Ms. HUNT. Do you get funding then from any source other than title 4 for your basic school program?

Mr. BENTON. The majority of our funding support is title 4. The survival schools are not eligible at this point in time for basic Minnesota education foundation grants.

Ms. HUNT. Since the courts sends students to your school, do you charge a fee or anything to take care of the students?

Mr. BENTON. We get nothing except the abandoned child. In the State of Minnesota, the foundation grant per child per unit is something like $1,500 per year. We get absolutely none of that support. Our support is not entirely title 4, but it is our funding mainstay. We do other things to supprt ourselves as well.

Ms. HUNT. How about Heart of the Earth School?

Mr. BENTON. We have an enrollment this year of 157 students. We have five graduating seniors on the 26th of this month. Our part C program serves three male institutions, a diagnostic center, two women's reformatories, and they also work with the American Indian Adult Opportunities Industrial Center. Altogether, we estimate that we are handling about 400 people.

This does not take into consideration the many court cases that we go through where parental determination of rights are determined. In the city of Minneapolis, there was not one single Indian licensed foster home in 1970. In the survival school system, the education and the awareness created among the families and the parents over 70 licensed Indian foster homes. A lot of these children that had been stolen and ripped off through the churches and the adoption agencies were not kept within their community.

We have some small contracts with the Minnesota Chippewa tribe under the Johnson-O'Malley. We get some title 1's out of the school and some small grants from the traditional arts and language legislation that was created by the State of Minnesota. The major portion of our grants come from title 4.

Ms. HUNT. From your testimony, it looks like there are 253 at Red School House and about 400 people affected at Heart of the Earth. That is 650 people. What would happen to these 650 people if title 4 were transferred to the Bureau of Indian Affairs?

Mr. BENTON. Prior to the establishment of the Red School House, as reflected in all of our documentation as well as studies conducted by the Department of Education, would tell a pretty grim story. One of the most amazing facts is that prior to the establishment or the onset of the American Indian Movement activities, the Indian population for the State of Minnesota was less than 1 percent of the total. The population of the Indian people at the reformatories, State prisons, but for male and female, reflected something like 35 to 60 percent of the total population.

The total job figures are still disproportionate, as is well known. What would happen—I would not really dare say. I can only say that in terms of what we have been able to do with our programs and title 4 funding can only be reflected by the successful graduates, by people who have gone on to higher education, military service. I can only think in those terms. It does not take very much thought or imagination to figure out what would happen were those funds suddenly cut from reality or education turned over to the responsibility of the Bureau of Indian Affairs. I think those kind of successes would be yesterday's dreams.

Mr. Bellecourt. I feel it would be devastating because not only are we faced with that situation for the possible transfer of funds and educational funds to the Bureau of Indian Affairs, but the city where I come from—they just closed down 18 schools, four of them within the Indian community of about 15,000 to 20,000 people. This alone is going to have a tremendous impact on our school. This is from the request already received. We already have almost 100 people over and above what we can handle that are requesting this.

Ms. Hunt. My final question is to the entire panel about the two remaining contract schools and the two survival schools. How do you address the issue of accreditation? Do you have accreditation either through some other system or through a tribal system or what? How are your schools accredited and if not, what affect does this have on your students proceeding to higher education?

Mr. Benton. We have always had a problem with the process of accreditation and with the meaning of the word accreditation. Very early in our history, say, like 1974–75, there was a great flurry about the Red School House being accredited. We made some very thorough and exhaustive studies about the system of accreditation. We contracted at North Central Accreditation Bureau—I believe that is the name. We learned that there are three distinct levels of accreditation.

We were very excited about that so we invited that organization to come to the school and inspect our curriculum and see how our students were doing in terms of scores and achievement. We were very excited about this. When the examination finally did arrive and our time for that body to visit our school, they spent all of their time inspecting our fiscal controls or bookkeeping system and our system of payroll. They did not look at our language series in Ojibwa, they did did not look at our curricula for the lower grades or any grades, for that matter.

The Indian community in general really has not grasped what accreditation means. In the end, we were told that for a $3,000 fee, the Red School House would become a candidate for accreditation. Since we felt that our books were in perfect order and since the Federal Government had received all of our audits, we did not feel that our bookkeeping system should be accredited.

Ms. Hunt. I do not know how many you have graduating from the Red School House, but will they have any problems going to college?

Mr. Bellecourt. Of 33 graduates from Red School House, 19 have gone on to college.

Mr. **Benton**. The Red School House diploma is accepted wherever it is presented.

Mr. **Bellecourt**. We have found our students are better prepared and better able to deal with this and the problems they had faced in their elementary years because one thing we teach in the schools is respect for mankind. All of our students who graduated from the school are very actively involved in their positions within their own communities. One of our graduates from last year is one of the teachers for the Johnson-O'Malley program for a Minnesota tribe. She is already teaching in school.

A lot of the young people who are graduating today are finding out that it is better for them to get a very good skill with on-job training because people walking around with doctors' degrees in their pockets cannot find a job. We are recognizing that also. We are trying to develop that relationship with business, industry, and government to bring about job training and the commitment of jobs and opportunities.

Ms. **Hunt**. Thank you.

Is there any further comment?

Mr. **O'Neal**. We have not attempted to get certification from the State. The tribe is currently working and will be developing a set of standards for the community and for the tribe. We found exactly what Mr. Benton had said. It is unfortunate, and a lot of people think it is, but accreditation by States or anyone else does not insure any kind of program. It only says you have so many books in the library and such and such staff. It does not allow for the flexibility to meet the needs of the students, especially Indian students.

We have no desire to follow through. We want the tribe to have its own standards. We want to help formulate this and be involved in that effort.

Of our 10 graduating students from high school this year, we have already had one graduate. He had no difficulty getting into a Sante Fe arts institute. We have had five or six of our graduating students apply to college, and there has never been an issue. They are evidently accepting our diploma.

Mrs. **Graham**. When we first started the school—and I am not sure what took place at that time on the accreditation of the school—but we feel that our students are better prepared for high school and are able to make it through high school. Since we are a very small tribe, we do not have that many students who have graduated from college. There are one or two. At least it shows that they could make it through high school.

In the past we have had students who tried to go to college and were not able to make it, but in the past several years we did have a couple. I think that accreditation of a school does not have anything to do with the quality of education that our children are getting now. They are able to go on.

Ms. **Hunt**. I thank you all very much. I thank all members of the panel. This has been a somewhat exhaustive look from what you would ordinarily get in a hearing at contract and survival schools. I feel that it is important that these items be included in the record. Thank you very much.

Our next panel, who have waited very patiently and we appreciate that, consists of Mr. Clifford Pablo, the chairperson of the board of trustees of Indian Oasis Elementary School District and Baboquivari High School District of Sells, Ariz.; Mr. Louis LaRose, community representative from the Winnebago Tribe, accompanied by Earl Boyum, superintendent of the Winnebago Public Schools of Winnebago, Nebr.; and Mr. Jim Maza, executive director of the Impacted Area School Association, Washington, D.C.

Would you come to the table, please?

You may proceed at this time.

STATEMENT OF CLIFFORD PABLO, CHAIRPERSON, BOARD OF TRUSTEES, INDIAN OASIS ELEMENTARY SCHOOL DISTRICT AND BABOQUIVARI HIGH SCHOOL DISTRICT

Mr. PABLO. I am glad to be here on behalf of the board of trustees of the Papago Tribe. These are public schools within the boundaries of the Papago Indian Reservation in southern Arizona. The two districts serve approximately 1,000 students, 97 percent of whom are Papago Indians.

Today, I am speaking for the schools in my community and on behalf of the Arizona Indian education project and association including 12 public school districts located on Arizona's Indian reservations. These schools have many of the same problems I am going to describe for the Papago public schools.

As background, the main Papago reservation is an area about the size of Connecticut. More than 12,000 Papago Indians live on the reservation in small, widely scattered areas. These people show the affects of poverty that exists on Indian reservations in Arizona. There are high rates of infectious disease, diabetes, and alcoholism; there is unemployment in excess of 50 percent; there are deteriorated home environments. These conditions increase significantly the cost of education, and they will worsen with reduced Federal help and social assistance.

The Papago districts operate three schools for the elementary grades with a total enrollment of 669, and 1 high school with an enrollment of 233. Ninety-five percent of these students meet the poverty criteria for title I eligibility. All school facilities are located in or near the town of Sells at the center of the reservation. Tucson, located 65 miles to the east, is the nearest place for supplies and services. Less than 4 percent of the certified teaching staff is Papago. The remainder is made up of non-Indians from off the reservation.

As to the instructional program, most Papagos have lived on the reservation in isolated villages all their lives. Approximately 85 percent come from homes in which Papago language or a combination of Papago-English is primary. Because of their limited exposure to the dominant culture, fully 75 percent of the students test below grade level in English. All of these students participate in the district's title I reading programs. Ninety percent are below grade average in math, but due to lack of funds there is no remedial program for them.

To teach we have to continue to improve basic skill levels with Federal programs that enable us to hire classroom aides and offer other support services, especially title I, title IV, title VII, and Johnson-O'Malley must be funded adequately.

As to transportation, last year the State of Arizona reimbursed the Papago school districts for 107,000 miles, the maximum allowed under State law. Our buses, although operating under severe travel restrictions, were actually driven a total of 217,815 miles. The difference between the State's contribution and actual bus transportation outlays was taken from the budget for teachers, Papago-speaking classroom aides, textbooks, and other items contributing directly to instruction.

Much of the time, the school vehicles travel on unimproved dirt roads which cause significantly higher maintenance costs and a shorter useful life. Due to lack of funds for fleet renewal, the average age of our buses is 6 years, and these run full time because there is but one spare.

Bus travel is not the only transportation expense. Geographical isolation requires a large number of vans and other vehicles for student travel. Additionally, the Papago districts must maintain a commuter bus for teachers living in Tucson. The State contributes nothing to defray the cost of these vehicles.

The average teacher base salary for all public schools in southern Arizona this year was about $13,295. On Papago, the base salary was $11,400, a full $1,400 less than the next lower paying district. Because of the low pay scale, every year we lose 20 to 30 percent of the teaching staff. This reduces measurably the effectiveness of instruction. Unless adequate revenues are provided in the future, the salary gap will become even greater. Competitive salaries are virtually necessary to retain quality teachers who will be willing to absorb the extra cost and inconvenience of either living in cells or commuting 3 hours daily from Tucson.

Eighty percent of our students require free food through the Federal school food program this year in the Papago public schools. The actual cost of operating the students' food program will be about $228,000, but only $180,000 will be reimbursable, leaving a balance of $48.000 that must be paid from the general education budget.

My purpose here today is to show that Papago and other reservation public schools in Arizona have extraordinary costs that do not occur in most areas. The State of Arizona does little to help us meet these extraordinary expenses because State aid is based on the lower cost of large predominantly white districts with ample bonding capacity.

Furthermore, this year Arizona will again ask the U.S. Department of Education for permission to reduce State aid to our districts in proportion to the Public Law 81–874 moneys we receive. If permission is granted, the already inadequate State aid payments to us will be cut over the next 5 years.

The tax poor Indian districts of Arizona must rely on the Federal Government for support. I have already mentioned the importance of title I. title VII, and Johnson-O'Malley. Together the Federal supplemental programs contribute 28 percent of this year's operating budget. Of even greater importance is Public Law 81–874 which has contributed 50 percent of this year's total revenues. Reductions in these programs will devastate the Indian districts because we are small and because we will sustain extraordinary costs in personnel, transportation, and maintenance.

In 1978, affirming the Federal trust responsibilities to the Indian people, Congress made a commitment to fund an extra cost of Indian education by amending Public Law 81–874 so that Indians could receive 125 percent of the student impact aid entitlement. In doing so, Congress recognized that impact aid is not merely a supplement to Indian public school finance that can be traded away during times of budgetary restraint. Impact aid is as vital to the Indian public schools as the property tax is to the rest of the Nation's schools.

The program must be continued at full funding.

I have prepared a packet of supplementary materials which I will leave for your consideration.

On behalf of the Papago public schools and the Arizona Indian education project, I thank you for our attention.

Ms. Hunt. You may proceed, Mr. LaRose.

STATEMENT OF LOUIS LaROSE, COMMUNITY REPRESENTATIVE WINNEBAGO TRIBE, ACCOMPANIED BY EARL BOYUM, SUPERINTENDENT, WINNEBAGO PUBLIC SCHOOLS

Mr. LaRose. My name is Louis LaRose, a member of the Winnebago Tribal Council, Winnebago, Nebr. I have been given the honor to present this testimony on behalf of the Winnebago Tribe of Nebraska and the public schools.

I want to testify on Public Law 84 and the negative impact that would occur in our community if Public Law 874 moneys were not available to support our local public schools.

There is a major problem on the Winnebago Indian Reservation and on all three reservations in northeast Nebraska. No one wants to assume the responsibility of providing basic education for Indian students. In regard to providing education, the State of Nebraska does not want to assume the responsibility. The Bureau of Indian Affairs does not want us. It is not a trust responsibility. The Department of Defense does not want us. The local landowners could not possibly assume the additional tax responsibilities and the adjacent communities could not asume additional responsibilities if we had to close our schools and bus our students to their districts.

During the last session of the Nebraska Unicameral, a bill was passed clearly stating that the unicameral considered—it would not be popular in Nebraska to raise taxes to provide an education for Indian students. Due to the State of the farming economy and the number of farm auctions, farm sales, and farm bankruptcies, this would clearly indicate that the farm community could not assume any more tax responsibility.

If the Winnebago public school had to close its doors, the option of busing students to nearby school districts would be extremely unpopular. The option of sending any students to BIA boarding schools is no longer viable. The Winnebago community has worked diligently to provide the quality education for our students, and it is vitally important that Public Law 874 continue to provide moneys for our school districts.

I would like to point out that although the people are not here, there is one bright spot. Mr. Stockman and Mr. Reagan should know that for the first time in a long time—as long as I can remember my involvement in politics on the Winnebago Reservation—Mr. Stockman and

Mr. Reagan have succeeded in uniting the Indian community and the local white community because we want to save our school. The options that are thrown at us leave us very little choice. It is very clear that we have limited choices.

The most difficult part of this for me to deal with is that both communities have been working very hard in developing an excellent school, and we do have a good school. There were times when I would be the first one to say that our school was inadequate, but we have worked. We have good people; we have good teachers. It is working. It seems to be the most inappropriate time to take this money from us. We have had to take some drastic cuts in programs on the reservations, and I assume some of those were trimming fat from our budgets. However, the cut in 874 is not trimming fat. It is going straight to the jugular because I think our school would be destroyed.

The option of providing education for Indian students would be destroyed. What are they offering? They are not offering anything in return. That is what I think is the tragedy of this whole situation. We have people on the school board; we have teachers; we have people who do not know whether they have a job. They have no job security. We do not know whether we are going to run a school.

I think that the Senators are going to have to give us some assurances that we are going to carry on because we do not have any assurances in the next fiscal year that we will be able to carry on. It is important for us.

The members of the Winnebago Tribe and our community need to know what will happen to our school.

Thank you.

Ms. Hunt. Mr. Boyum, do you have any comments?

Mr. Boyum. I am Earl Boyum. I am superintendent of Winnebago public schools. I would like to support Mr. LaRose in addressing the real problem in our district, which is the curtailment of Federal funds, specifically Public Law 81-874.

As part of my presentation, I would like to read the following letter from the director of the Winnebago title IV project. It is dated May 17, 1982.

> Dear Chairman:
>
> I am writing to you on behalf of the Committee of the Title IV program in Winnebago in regard to the education of the 300 Indian students in our public schools. We wish to indicate to you our deep concern that the quality of education that will be provided for Indian students in the coming years will be so drastically diminished by projected Federal budget reductions and unfavorable departmental reorganizations that both the academic and social survival of Indian children will once again be seriously jeopardized.
>
> A school such as ours, which depends upon Federal impact aid for over 60 percent of its funding, can ill afford further reductions in Public Law 874 monies when severe limitations have already been imposed upon the purchasing of necessary textbooks; when our teaching staff has been reduced to the point where next year's first grade teacher faces the impossible task of instructing 40 students; when extracurricular programs have been cut; and when it appears inevitable that both busing and breakfast will be curtailed or eliminated entirely.
>
> Our Indian students can ill afford a reduction in the services provided to them through supplemental programs such as title IV when the school has already lost its title VII program and its title IV(b) program, and by next year will have lost its handicapped children's model program, and may receive no special vocational needs reimbursement because of cutbacks.

Our Indian students can ill afford a reduction in the academic services provided to them through title IV when standardized test scores, attendance records, drop-out rates, unemployment records, and performance at post-secondary levels demonstrate beyond question that Indian students have special academic and cultural needs that must be met if these young people can realistically expect to minimally succeed in America today.

We are being told that despite Federal trust responsibilities to the Indian people established through statutes and treaties the burden for meeting the educational needs of Indian children should be placed within the States. In conference with State officials, however, we are being told that the State cannot and will not assume the major responsibility for educating Indian children.

In the meanwhile, we have lost academic programs. We are losing academic programs, and we may lose what remains. Our students live with the grim and very real prospect that their school may be closed because of inadequate funding and that they may have to attend area schools where they are not wanted or boarding schools where they do not want to be. Possibly without adequate Federal or State funding there will be no school at all for them to attend. Should that happen, our students will fall still further behind their non-Indian peers across the nation who are being afforded the education to which all Americans are entitled.

While the governments of our country battle over who does not have the responsibility of educating the descendants of those from which this land was bargained, the already dim hopes of Indian children will fade entirely. In hope of further insuring that the Federal government will recognize and uphold its obligations to the Indian people of America, we wish to be placed on record as being in opposition to any reduction in Public Law 81–874, Impact Aid to Indian Children, or any further reduction in appropriation for title IV programs.

Further we are in opposition to the proposed transfer of title IV to the Bureau of Indian Affairs since we believe that such a transfer would result in the dilution of the services and funding available to the title IV and of preclusion of title IV services to Indian students presently served by title IV who do not meet the BIA's one-fourth blood quantum requirement.

We also strongly oppose the consolidation of title IV with the Johnson-O'Malley program, particularly in light of the recent General Accounting Office's audit which established that title IV and JOM do not duplicate services to Indian children.

Please consider carefully the points we have presented to you in this message and strive to avert the devastation of more reductions in title IV funding that will be brought upon Indian education. Please help us to avoid another American tragedy for which there can be no excuse.

Ms. HUNT. Thank you. Go ahead.

Mr. BOYUM. I would like to spend the remainder of my time speaking directly to Public Law 81–874 as it relates to the Winnebago public schools.

I would like to make a number of points. No. 1, over the past 10 years, impact aid has furnished a large segment of the school's general fund operating budget. In the last 3 years: 1979–80, 59 percent; in 1980–81, 53 percent; and currently in 1981–82, 60 percent.

No. 2, enrollment in the Winnebago public school district is substantially impacted; the degree ranging from a high of 98 percent to a low of 75 percent. Currently, the percentage is slightly over 89 percent.

No. 3, the wealth of the districts in the State of Nebraska is measured in actual property valuation supporting each student in school. Winnebago ranks 289 out of 292 school districts. Only three are in worse shape, and two of them, Macey and Santee, are also Indian schools.

No. 4, even if we were able, we could not increase either local or State support significantly because Nebraska operates under a 7-percent lid on State and local revenue increases.

I might add here that the three Indian schools already receive under the State aid formula the greatest percentage of any per pupil State aid in Nebraska.

No. 5, three major studies of impact data conducted at approximately 10-year intervals have reaffirmed the economic equity of Public Law 81–874. The last of these was the report of the Presidential Commission for the Review of Impact Aid in 1981.

To summarize the situation very bluntly, without continued Federal support from Public Law 81–874 or some other source, we are out of business in a year. Even to reduce funding is to close doors. We have already cut our certified staff by four teachers and one administrator in the last 2 years. We can cut no further and maintain a program that meets State requirements not to mention local needs.

Continuous reduction or stopping of Federal funding can only lead to the closing of the schools. To allow this to take place is unthinkable. It would be impossible to measure or to put a dollar value on the loss to the students and to the people of Winnebago.

I sincerely hope that the Members of Congress will not allow this to take place and will either support full funding of Public Law 81–874 or some other form of legislation to meet the need.

Thank you very much for your concern and for giving me this opportunity.

Ms. HUNT. Thank you, Mr. Boyum. In your testimony, you at least alluded to school equalization problems. The State of Arizona does have a school equalization formula. Is that correct?

Mr. PABLO. Not at this time. The State legislature passed an equalization formula that was challenged by the Indian school districts of Arizona and has been taken under consideration from the Justice Department. At this time, it is resubmitted, and it was not approved.

Ms. HUNT. So that is a recent development then? You are affiliated with the Arizona Indian Education Project, and a number of school districts in Arizona have certainly brought to our attention the potential problem that even if there were adequate impact aid money they would still have some problems because of the equalization formula. So now we have that out of the way for the time being. Is that what you are telling us?

Mr. PABLO. If I could, I would like to have Mr. Ryan, our superintendent of instruction, speak to that issue.

Ms. HUNT. Mr. Ryan.

Mr. RYAN. Thank you. Just for a point of clarification, the State does have a formula. One aspect of it has been challenged by the Indian schools; that dealing with the fact that in 5 years they will take away 80 percent of our State aid equal to our 874 moneys. That is the fact that has been challenged and found lacking.

The formula itself has been adopted by the State. I think they have noted for schools such as ourself as well as rural schools it does not equalize education because our expenses are so much higher.

Ms. HUNT. Thank you.

In the Winnebago public schools, if you receive a reduction from what you are receiving now, from your testimony, it certainly appears that you will have to close your school. Nebraska has determined that it is a Federal responsibility to educate Indians. If you do not receive the same amount of impact aid that you received last year, what in effect will happen to the 300 Indian students and to the non-Indian students in your school district?

Mr. BOYUM. I do not think anyone really knows. I do know that in the State of Nebraska we are limited, first of all by a 7-percent lid. Second, Nebraska is the 48th State in the Union as far as State supported public education is concerned. As Mr. LaRose said, the biggest problem comes as the local districts around us, No. 1, do not have to accept our students. By State law, there is no reason that they would have to accept any of our students. No. 2, they do not want to accept our students. So any reduction in Public Law 874 would put us in a position where we would lose, not only reduction, but we have no way of making up, either through State or local funding, even if we wanted to because State aid laws are already in the books.

Ms. HUNT. For the record, the position of both the Winnebago public schools and the Papago Reservation on the transfer of the title IV program—I believe we have the position of the title IV program at Winnebago, but how do the public schools view this transfer?

Mr. PABLO. Mr. Ryan is pointing his thumbs down. I think that pretty much speaks for the Indian education project in general, that they would be supportive against any transfer.

Mr. BOYUM. We would concur with that.

Mr. LAROSE. We would concur with that.

Ms. HUNT. We have been dealing in your testimony with potatoes, that is operating funds for keeping the schools open. What are your facility construction needs? As to problems with operating dollars, do you get assistance from the States in rental costs or in new construction costs for your school districts?

Mr. BOYUM. The State of Nebraska furnishes no money for this purpose. We receive a certain dollar amount that we can use any way we want. If we use it for maintaining the building or maintaining the facility for operation expenses, it does not go for instruction.

Mr. LAROSE. The facilities at Winnebago are excellent. We just completed construction several years ago of a total new kindergarten through 12 facility. We have better facilities than most of the surrounding white districts.

Mr. BOYUM. That makes a double tragedy. We have the best facilities, and if we were to lose them because we cannot fund it—the schools around us cannot match us like Mr. LaRose said.

Ms. HUNT. A school built in the 1970's was just the right time to get it built, it seems. How about the other districts?

Mr. RYAN. The State of Arizona does provide some funds. I think we get something in the neighborhood of less than $100,000 a year for capital projects, which includes buildings, textbooks, and the like. Like Nebraska, it has a certain amount percentage limit on the amount of increase and expenditures and the amount of increase in revenues. That is, unless we have a vote of the people which we do each year. Our 874 moneys have allowed us to replace some of the aging structures. This will allow us to buy schoolbuses or replace older schoolbuses this year.

Without 874 money, we could not update the future housing units, which is, we hope, one of our attractive facets in keeping teachers. Also we would not be able to replace buses, and we would not be able to build a new warehouse which we are now doing and replacing some aging classroom structures which the termites have taken over.

Those moneys would have to come from operating funds, and we just cannot do it, as our salary schedule indicates.

Ms. HUNT. In the past, have you made application under Public Law 815?

Mr. RYAN. Yes, that is how we have our high school.

Ms. HUNT. Does the elementary school need replacement at this time, or can you do it through another agency?

Mr. RYAN. We are attacking that problem through renovations and replacing three portable classrooms with four new masonry buildings. This is with 874 funds, not local funds.

Ms. HUNT. For the public school districts, how well has the title IV programs worked for the Indian students? How well are you, as school districts, working with the Indian parents? We often hear the viewpoint of those parent committee members, but we would like the perspective now of the public schools and how you view that program and how well you work with the parent committees.

Mr. BOYUM. Our committee is probably the most active group in the school. In fact they were so active and doing such a good job, I asked them if they would serve on other committees such as the vocational committee for State reimbursement as our title I committee and other areas, and they graciously accepted. They do a fine job.

Mr. RYAN. I would second that. We have a rather integrated title I, IV, and VII. We have put this into one large advisory board. They meet four or five times a year. They advise the board in administration on the needs of the children. They have been very active. We are very pleased to have the input.

Ms. HUNT. Are there any other questions from the staff?

How would the closure of the Bureau of Indian Affairs Phoenix Indian School affect the Indian Oasis school districts?

Mr. PABLO. I think that the closure of any of the broading schools in which there are Papago students, and especially the Phoenix Indian school, would impact most severely on the Indian Oasis school and its budget in that there has been no preparatory sessions with regard for the Bureau and the district personnel as to how an orderly transition would occur. We have had this scare thrown into us several times during the past couple of years. First of all, it was Intermountain a couple of years ago. Other than communicating that they were, so to speak, throwing these students on us and that we were duty bound to accept them, there was no other communication received from the Bureau. They aid we would discuss how they would lend support to these students once they were accepted or once they were taken in by the school districts. None of that ever came about.

Of course, Intermountain is still open, but as I understand it, it is being closed this year. They caught us totally by surprise. It was something that none of us had expected.

However, I think that all of our Indian schools have upward of 100 students in their population. There are either 100 students or 50 students at the high school level. That would do us under very easily because there would not be the time for that orderly transition. Yet the students are immediate; they cannot wait until the funding is there.

I think possibly the State would be able to help us out some on that, but none of the planning has ever been discussed especially with the Bureau or the State, because it is always hypothetical?

I know it would impact on our district severely.

Ms. **Hunt**. Mr. Ryan.

Mr. **Ryan**. One additional factor is that many of these students live in the west and northern part of the reservation, which would mean a 3-hour drive each way. Perhaps it would be a 2-hour drive each way on the buses. Therefore, if the three main Indian schools, including Phoenix, were to be closed, we would have to have another high school on the west side. There is no way we could afford building another high school. We would have to have help to build a high school on the west side. We cannot expect children to ride 2, 3, or 4 hours a day to get to one high school.

Ms. **Hunt**. This morning, Mr. Ramirez mentioned that you have one high school on the reservation and a number of elementary schools. I do not recall how many. Are all these schools within the two school districts?

Mr. **Ryan**. In essence, they are one school district. As of July 1, they will be one school district, and they compose probably about two-thirds of the reservation. The primary school and the high school are located in the town of Sells. Seven miles is our middle school. The majority of the children do live in that area, which is true.

Ms. **Hunt**. Thank you very much.

Are there any Winnebago students in boarding schools?

Mr. **LaRose**. There are quite a few students who had been going to boarding school, such as Andrew and the schools in Oklahoma.

Ms. **Hunt**. How will the proposal to the Bureau of Indian Affairs to shut them down affect your school district?

Mr. **LaRose**. We are having a difficult time, or will have, picking up the overload. I do not know. The way things are going now everything is going to affect it, as far as I am concerned. However, that would be an additional load.

Mr. **Boyum**. We are already facing an additional load. We are perhaps directly opposite Montana and some of the other schools. Our current population in kindergarten is 40 students. Our projected enrollment next year in kindergarten is 40 more. The projected enrollment beyond that shows continual strength, if not an increase, all the way down the line. So instead of getting smaller in a time of diminishing and reduced aid and curtailed programs, we are actually a growing school.

Ms. **Hunt**. I do not have any other questions. None of the other staff have any questions.

We really appreciate your waiting this late in the day to be with us and to provide the testimony from the perspective of public schools and Indian communities that are associated with such public schools. Thank you very much for traveling a great distance to be with us.

The hearing record will remain open for 3 days to accept additional testimony that you may want to submit or any other interested parties may want to submit.

If there are no other witnesses, we will stand adjourned.

[Whereupon, at 5:55 p.m., the hearing was adjourned to meet the following day at 10 a.m.]

INDIAN EDUCATION OVERSIGHT

MAY 19, 1982

U.S. SENATE,
SELECT COMMITTEE ON INDIAN AFFAIRS,
Washington, D.C.

The committee met, pursuant to notice, at 10:17 a.m., in room 6226, Dirksen Senate Office Building, Senator William S. Cohen (chairman of the committee) presiding.

Present: Senators Cohen, Andrews, DeConcini, and Representative Pat Williams from the State of Montana.

Staff present: Timothy C. Woodcock, staff director; Max I. Richtman, minority staff director; Peter S. Taylor, general counsel; Mary Jane Wrenn, staff attorney; Jo Jo Hunt, staff attorney; John Chaves, staff attorney; John Mulkey, professional staff member; Alan Lovesee, attorney, House Committee on Education and Labor; and Jefferson McFarland, research assistant, House Committee on Education and Labor.

Senator COHEN. Today the Select Committee on Indian Affairs is continuing a 2-day oversight hearing on Indian education that we started yesterday. The hearing today will focus on the following topics: No. 1, the Federal responsibility for education of Indians; No. 2, the Bureau of Indian Affairs education services including BIA operated elementary and secondary schools and contract schools; No. 3, the reorganization of the Office of Indian Education Programs; No. 4, the proposed transfer of the Indian Education Act, title 4 program to the Bureau of Indian Affairs; and No. 5, the cumulative effect of budget reductions in impact aid, title 4 and BIA education programs and the quality of Indian education.

We have a number of tribal witnesses and witnesses representing Indian organizations and public schools, and administration witnesses to provide the committee with their views on the topics. We look forward to hearing the views of the scheduled witnesses on these important issues.

We have several panels today. Prior to the requesting of the first panel to come foward, I would hope that those in the audience who are going to be testifying would try and summarize their statements, otherwise we will never complete the hearing today.

Our first panel will be Stephen Adkins, Joan Cofield, Amelia Bingham, Rosa Winfree, Francis Hill, Pauline Smith, and John Rouillard. Please, come to the witness table.

STATEMENT OF MICHAEL L. HOLMES, DIRECTOR OF PROGRAMS, CHICKAHOMINY TRIBE OF VIRGINIA, APPEARING FOR STEPHEN ADKINS

Mr. HOLMES. Mr. Chairman, Mr. Adkins could not be with us this morning. I am Michael Holmes, the director of programs for the Chickahominy Tribe. I will be filling in for Mr. Adkins.

I will be speaking with reference to the title 4 program which the Chickahominy Tribe does receive services from at this time.

Ours is a small program. We have more than 100 students and less than 150 students who participate in the title 4 project. We have been operating the program since 1974. At present it operates on a budget of $21,000. Based on this figure, it is quite obvious that there is no room for frills.

Beginning in 1974, the program was more than 75 percent remedial. Through the years this has changed. At the present time great emphasis is on cultural studies and activities.

There has been strong evidence of the accomplishments of the program. It is most evident with respect to the academic standing of the Indian students within the school system that they attend at this time. That school system is the Charles City County school division in the State of Virginia.

Over the last 5 years the Indian students graduating from the high school constituted at least 30 percent of the top 10 students graduating, whereas the Indian population of the school system was less than 10 percent. Out of 3 of those 5 years there has been an Indian student that has graduated No. 1 in that graduating class.

The pride of heritage that has been accomplished particularly for the younger students through the efforts of the program are almost immeasurable. This is evident in the togetherness and the open fellowship among the students. We certainly believe that it does assist in their relationships with the larger society, particularly at the local level.

These are some of the advantages but there have also been some problems with the program.

In the beginning we had to overcome general apathy by the local LEA. As a matter of fact, it was through the exclusive efforts of the parent committee and the Indian parents themselves that the program even began in that area.

We have also had some disappointments in the level of expertise of the staff at the Federal level. It does appear that some of the quick changes and turnover in staff at this level has caused problems. When we have questions our contact person or persons cannot answer those questions without first reviewing Federal regulations or consulting with staff that are in the office with them. This becomes a problem especially when there is an on-site visit and you want to sit down and talk about issues and problems and program direction. The staff can give very little assistance or very few answers in this area.

The level of funding and at times the uncertainty of the funding coming from year to year has created a problem. Because of this we do not feel comfortable with the planning or planning ahead for any length of time. This posture has delayed, for months at a time, the startup of a particular program.

These problems I feel are certainly not insurmountable. We have been able to work with them in the past and I have no reason to doubt that we will be able to work with them in the future.

Senator COHEN. What is your basic objection to the transfer of title 4 to the Bureau of Indian Affairs?

Mr. HOLMES. The basic objection that I would have is the cutoff of the program to more than 50 percent of the Indian population.

Senator COHEN. Why do you assume it will be a reduction of 50 percent?

Mr. HOLMES. Based upon the responsibilitiy of the BIA and the BIA policy of working with BIA operated schools and with the reservation tribes. We are nonreservated. We do not have the Federal trust established at this time.

Senator COHEN. I am sorry. Please proceed.

Mr. HOLMES. In conclusion, I would like to emphasize that the program, in the opinion of the Chickahominy Tribe, has been extremely beneficial and we would certainly hate to see any cuts in title 4 particularly since we have been struggling with the present funding level.

We would also like to see continued the national representation on the advisory council so that all the views of the total Indian population can be incorporated into the future of title 4 as in the past.

Senator COHEN. Mr. Holmes have you had any contact with the BIA itself or anyone at the Bureau of Indian Affairs?

Mr. HOLMES. No, sir, I have not.

Senator COHEN. Any line of communication?

Mr. HOLMES. No, sir, I have not.

Senator COHEN. Thank you very much, Mr. Holmes. Without objection, your entire statement will be entered into the record at this point.

[The prepared statement follows:]

PREPARED STATEMENT OF THE CHICKAHOMINY INDIAN TRIBE, PROVIDENCE FORGE, VA., PRESENTED BY MICHAEL L. HOLMES, DIRECTOR OF PROGRAMS

The Chickahominy Indian Tribe has since 1974 had more than 100 of its children (grades 1–12) partcipating in Title IV Part A. The program is administered by the Charles City County School Division in Virginia and presently operates on a budget of $21,000. This $21,000 does not leave any room for frills but there is no doubt in the minds of the Indian population served that it is helping to meet needs of Indian students.

Beginning in 1974 the program was more than 75 percent remedial, mostly in the areas of reading and math with the remainder being advanced basic studies, and cultural related studies and activities. Through the years, based upon an annual needs assessment questionaire answered by both parents and students, the program has gone through a steady change from heavy emphasis on remediation to its present form where more than 75 percent of the funds provide for cultural related studies and activities. Through the program we have witnessed a significant advancement in academic standing and a much stronger pride in their heritage.

The evidence of advancement in academic standing is very apparent in the fact that since 1977 not less than 30 percent of the top 10 graduates have been Indian students (Indian students make up less than 10 percent of the school population). In 3 of the last 5 years an Indian student has graduated number 1 in their class. We have also witnessed a very strong increase in pride of heritage, especially among the younger students. They have found that to be Indian is not something to be ashamed of but a fact to be proud of.

The program has accomplished many good things, but it has not been without its problems.

1. We have had to overcome general apathy in the local school division and lack of adequate management by the LEA. It has been almost totally through the efforts of Indian parents and especially the parent committee that the program was started and continues to operate. The parent committee wrote the first proposal with almost no assistance from the LEA. Only in the last 2 years has the LEA accepted the responsibility of producing the finished proposal after the parent committee submits a rough draft. From time to time, there has also been a strong reluctance on the part of the LEA to allow the parent committee to have input in the hiring of staff. This has improved since the program emphasis has changed to cultural related studies and activities. This improved process has been accomplished through much prodding and negotiation by the parent committee.

2. We have been disappointed in the level of expertise of the Federal staff that made on-site visits. Almost all questions could not be answered until they returned to Washington to consult with other staff or study the regulations further. It appears that staff assignments change faster than persons can learn their jobs. We are especially apprehensive about the many staff changes that have taken place in recent months and continue to occur.

3. The uncertainty of future funding has made it very difficult to plan ahead and to maintain a reasonably smooth program operation from year to year. Some years we have had to delay start up of the program because we didn't know how much or when the money was going to be available.

4. Regional technical assistance workshops have been helpful in the mechanics of writing proposals but we would like to see more sharing of well designed and successful projects. There has not been enough funds available in our program to even take full advantage of the Regional workshops. Visits by parent committee members and program staff to other successful projects would be most helpful but the money just has not been there without using money that goes directly to services for the students. The parent committee has raised money through its own efforts in the community to help send persons to workshops and conferences, but it has not been enough. Some of the money raised by the parent committee must be kept in reserve to finance appearances at hearings such as this one.

We are very strongly opposed to a transfer of Title IV responsibility to the Bureau of Indian Affairs. We view it as unthinkable to consider denying Title IV funds to more than 50 percent of the Indian population. Nor would we want to see the National Advisory Council abolished. The Indian population in the United States is very diverse and broad based, therefore it is imperative that we have an advisory council that represents all of the Indian population, and not just a small segment.

Although we recognize that problems have existed in the past and no doubt there will continue to be problems with not enough funding, relations between agencies involved in Title IV, program operations, and technical and staff assistance, the program has been very, very valuable to the many Indian communities and thousands of Indian students. We strongly urge the committee to consider the total and diverse Indian peoples in the future of Title IV.

We sincerely thank the committee for giving us the opportunity to express the views and concerns of the Chickahominy Indian Tribe at the program decision and policy making level.

Thank you.

Senator COHEN. I have no particular order, Joan Cofield.

STATEMENT OF JOAN COFIELD, REPRESENTATIVE, NATIONAL URBAN INDIAN COUNCIL

Ms. COFIELD. Good morning, Mr. Chairman and members of the Senate Select Committee on Indian Affairs.

My name is Joan Cofield and I am a representative of the National Urban Indian Council. We would like to thank you for the opportunity to appear before this committee to present the National Urban Indian Council's views on Indian education and particularly the fiscal year 1983 budget proposal and the proposed transfer of title 4 to the Bureau of Indian Affairs.

The National Urban Indian Council strongly objects to the proposed transfer of title 4 parts (a), (b), (c), and (d) under Public Law 92–318 to the Bureau of Indian Affairs.

Public Law 92–318 was authorized by Congress to meet the special educational needs of Alaska Native and American Indian children and adults both federally and nonfederally recognized regardless of where they reside.

We are opposed to the proposed transfer for the following reasons. The Bureau of Indian Affairs track record to date and its dealings with off-reservation American Indians and Alaskan Natives leaves much to be desired. Current BIA policy, at both the administrative and regulatory levels, excludes as recipients of BIA services, off-reservation Indian and Alaskan Natives from all but a few BIA programs. Even when Congress mandates by law that the BIA service off-reservation Indians and Alaskan Natives as is in the Indian Child Welfare Act, the Bureau resists provisions of services.

This year's budget request by the BIA for funds for title 4 of the Indian Child Welfare Act is a prime example of this resistance. They ask for no funding for off-reservation programs even though Congress mandated the provisions by legislative authority.

We cannot expect the Bureau of Indian Affairs to carry out legislative intent as set forth in Public Law 92–318 and particularly for educational services to off-reservation American Indians and Alaskan Natives and nonfederally recognized groups.

If given the administrative authority for title 4, based on past and current Bureau of Indian Affairs policies and practices, off-reservation programs will probably receive no funding.

We cannot expect the Bureau of Indian Affairs to provide quality educational services under title 4 to American Indians and Alaskan Natives. Given the current BIA interpretation of responsibility that unilaterally declares that education is not a trust responsibility and therefore not in the purview of the BIA services, we must express our grave concern regarding the Bureau of Indian Affairs responsibilities for provision of educational services for Indians and Alaskan Natives.

When the current Assistant Secretary states "we," meaning BIA, have a responsibility to provide services to people on reservations, as quoted in an interview with Assistant Secretary Smith in the most current copy of the American Indian Review—our 1982 issue—clearly this excludes over 50 percent of the American Indian and Alaskan Native population in this country from potential service provisions by the BIA, which is contrary to the intent of Public Law 92–318.

A second area of concern that we would like to respond to this morning is the proposed funding level for title 4. It is a matter of public record and Indian position that funding provided for title 4 fiscal year 1982 was inadequate.

The Department of Education's proposed fiscal year 1983 budget, which is 37 percent less than that available in fiscal year 1981, is woefully inadequate. We recommend that level of funding for title 4 be set at the fiscal 1981 level or minimally at the fiscal year 1982 level for 1983. To accept the Department of Education's proposed fiscal year 1983 budget request is to accept below minimum for services and provisions to Indians and Alaskan Natives. Further, it can only guarantee a reduction in quality of educational services.

With respect to the other areas concerned, in this committee's hearing, we must defer to, and we support, the position of the National Advisory Council on Indian Education. Their work today has closely involved our constituent input and corporate concerns.

I would like to thank you for the opportunity to address this committee and give our ideas on Indian education.

Senator COHEN. Thank you very much, Ms. Cofield. The resolutions you submitted will be entered into the record at this point.

[The resolutions follow:]

NATIONAL URBAN INDIAN COUNCIL,
Denver, Colo.

Resolution: Indian education, title IV, funding fiscal year 1983.

Whereas, the level of funding for Title IV in Fiscal Year 1982 is inadequate to meet all of the special educational needs of Indian and Alaska Native children and adults, and

Whereas, the level of funding for Title IV for Fiscal Year 1983 is considerable less than the level in Fiscal Year 1982, and 39 percent less than Fiscal Year 1981, and

Whereas, the quality and quantity of services under Title IV would be drastically reduced in Fiscal Year 1983 if the Department of Education's budget request was unaccepted, and

Whereas, the special educational needs of Indian and Alaska Native children and adults are not being met by any other federal or state initiatives which can only compare to promote a lower educational attainment, therefore,

The end result that the National Urban Indian Council recommends, that funding for Title IV (all parts) be at the Fiscal Year 1981 level or minimally at the Fiscal Year 1982 level.

Passed this 17th day of May by the Board of Directors of the National Urban Indian Council, Des Plaines, Illinois.

NATIONAL URBAN INDIAN COUNCIL,
Denver, Colo.

Resolution: Indian education, title IV, transfer.

Whereas, title IV Programs are essential to the educational needs of all Indians and Alaska Natives whether living on or off the reservations, and

Whereas, the Department of Education has adequately fulfilled the need for effective administration of the Title IV Programs, and

Whereas, the Bureau of Indian Affairs has not been a strong or aggressive advocate for Indians living off the reservations, and

Whereas, without characterizing its performance, the focus and agency attitude of the Bureau of Indian Affairs has essentially excluded off-reservation Indians and Alaska Natives, and

Whereas, the heretofore established and developed thrust, purpose, and policy of Title IV should not be effected by any alteration in the administration of the programs, and therefore, be it

Resolved, That the National Urban Indian Council opposes the transfer of title IV Programs to the Bureau of Indian Affairs and supports the continuation of administration of Title IV, by the Department of Education.

Passed this 17th day of May by the Board of Directors of the National Urban Indian Council, Des Plaines, Illinois.

Senator COHEN. Next, Ms. Amelia Bingham.

STATEMENT OF AMELIA BINGHAM, PLANNER, MASPHEE WAMPANOAG COMMUNITY DEVELOPMENT CORP.

Ms. BINGHAM. Good morning. My name is Amelia Bingham. I am former commissioner for Massachusetts on the commission for Indian affairs and the former director of title 4 Indian education program in Falmouth, Mass. I appreciate this opportunity to address you. It is a rare opportunity to be heard in this great Capitol.

The commission of Indian affairs was established back in 1974 in the Commonwealth of Massachusetts through a legislative act which at that time announced to the American public that it recognized the Indian tribes in the Commonwealth.

We have been a long way from getting the basic educational needs in our communities in Massachusetts. It was not until recently that title 4 offered us an opportunity to supplement the educational needs of Indian children in the public school system in Massachusetts.

The amount of money that was allotted annually for the title 4 program was a far cry from the needs of the people there. It was less than $20,000 a year. To me this was a shocking fact. When it came to my attention that over $870,000 were sent to the Commonwealth of Massachusetts annually for Indian educational purposes, I was greatly overwhelmed. Most of this money was filtered into the Ivy League schools, and it did not address the needs of the indigenous people of Massachusetts whatsoever. Often some of the elementary and secondary schools benefited from these funds as well.

It is my understanding that the moneys that come under title 4 are assessed according to head count. By using this method of allotting these funds, it caused a great hardship on us because we were unable to acquire the necessary office equipment, the staff; we could not hire the expertise that we needed because the funding was not there to give them adequate salaries. We did the best that we could.

At this point the very idea of the title 4 program being moved from the Department of Education to the BIA, a Department that has historically denied us services, protection and funding—it would be a terrible blow to the Indian people of Massachusetts.

Senator COHEN. If I could interrupt you for a moment, Ms. Bingham. What you are saying is—I guess it is almost a consensus here—is that the BIA does not represent the tribes and does not carry out the obligations as required, not only under statutes but what was mandated expressly by Congress. The institution itself is simply not fulfilling its mission. Is that correct? Is that a fair comment about my observations of what you are saying?

Ms. BINGHAM. The observation, as far as I can see, is that if funding is transferred from the Department of Education to BIA, we are left out totally. We realize that.

Senator COHEN. What happens if the Department of Education disbanded or dismantled or abolished—whatever term we want to use—what happens at that point? What would you recommend or where would you recommend that title 4 or the Indian education program be transferred?

Ms. BINGHAM. There would have to be another agency that would be made available for this program to be put into, other than into the BIA.

I feel that there are a great deal of Indian people across the country that are in rural areas and in urban areas that are not serviced by the BIA. This is a sign of the Government turning their backs on us by making this transfer to the BIA.

Senator COHEN. Is it a question of the BIA not being equipped to deal with educational issues or not caring about educational issues? What is it about the BIA? Is it simply a lack of personnel, lack of expertise, or lack of concern? What is it?

Ms. BINGHAM. Well, whatever it is, I think that the attitude toward the nonfederally recognized Indian, whether they are urban or rural, is that they do not exist. Therefore no attention would be given in that area. That is my feeling about it.

Ms. WINFREE. I think history shows that historically the BIA has not served effectively the Indian population that they are mandated to serve.

Senator COHEN. You mean in all programs?

Ms. WINFREE. Yes.

Senator COHEN. You may proceed, Ms. Bingham.

Ms. BINGHAM. One of the things that I would like to say is that the Wampanoag tribes of Massachusetts have historically been recognized by the Federal Government. There is evidence that there was recognition in 1910. There is no evidence however, that the Wampanoag tribe had ever been terminated by the Federal Government.

We are in the position at the present time of going before the BIA and applying for Federal recognition. I do not understand this. Even though the general services other than education are not on our priority list, there are certain areas where we would receive protection if we had Federal recognition. Thank you.

Senator COHEN. Does that complete your statement?

Ms. BINGHAM. No. I would like to, at this time, take the opportunity to express my dismay at the idea that the Federal Government brings in thousands of foreign students from around the world and pays all of their expenses—everything. A great majority of these students attend Ivy League colleges.

When the Indian communities asked only for basic educational needs and the threat of having these cut became evident. It was a traumatic experience for us. It is not that we object to others getting an education, but we want to be included. We are Americans and we want to be serviced and have proper recognition.

I ask that strong consideration be made that the Indian education program is not or rather not be transferred to the BIA.

Thank you.

Senator COHEN. Thank you very much, Ms. Bingham. Without objection, your entire statement will be entered into the record at this point.

[The statement follows:]

PREPARED STATEMENT OF THE MASHPEE WAMPANOAG INDIAN TRIBAL COUNCIL, INC., PRESENTED BY AMELIA G. BINGHAM, TRIBAL REPRESENTATIVE

I am Amelia G. Bingham, former Massachusetts Commissioner on Indian Affairs, former Director of Title IV Indian Education Program for Mashpee and Falmouth, Massachusetts, presently employed by the Tribe as the C.D.C. Mashpee Wampanoag Community Economic Development Planner. I reside at Fish House

Hill, in the Town of Mashpee, Mass. One of the first locations for Indian Reservations in America.

The Commission on Indian Affairs was created in 1974 by an act of the legislature of the Commonwealth of Massachusetts, Chapter 7, Section 38 of the General Laws, that states, that "Said Commission shall investigate problems common to American Indians and persons of American Indian descent, who are residents of Massachusetts. It shall assist Tribal organizations, and individuals in their relationship with agencies of the State government. It will also aid in the relationship of Native people with social services, (education, employment opportunities, Health & housing problems, civil rights, legal aid, treaties and taking of a census of Indian residents. Said Commission will also interface with any other rights concerning Indian residents of the Commonwealth." Although this mandate addresses our needs here in Massachusetts, the State has made little effort to support the role of the Commission which it created, nor fund services required by the Indian people. Indian representation in Massachusetts Social Service agencies is totally lacking.

Although intertribal organizations are involved statewide in the concerns of education, whereas the Federal Government presently disclaims recognition of the Massachusetts Indians, there are records that illustrate the fact that there was Federal Recognition of the Wampanoags in 1910, without further evidence of termination. Despite this fact, the B.I.A. has disallowed the recognition and requires that a new application for recognition be submitted by the Wampanoags for consideration and process.

I propose to provide my statement of opposition to the Transfer of the Indian Education Department with funding, from the Department of Education to the Bureau of Indian Affairs, under the Department of the Interior.

It is our contention that with this transfer, the Federal Government agencies as designated, as presently proposed, may not continue to service the Wampanoag people, or other nonfederally recognized Indians East of the Mississippi River.

If I may set aside for a moment the dishonorable treatment accorded the Massachusetts Indians since the arrival of the colonists, it is worthwhile to suggest that you consider the exploration of the historic and legal justification for the position of this tribe, which is unequal in any other part of the American society.

However difficult it may be for good Statesmen to agree upon methods to rectify some of the wrongs inflicted on the Native Americans, steps must be taken to stop the injustices to the American Indians, whether they live on or off the reservations. It must be evident that the first step can be taken toward righting the wrongs, curing the ills and wiping out the disgrace of present conditions of the Indians.

Why is it that this government can spend billions of dollars to educate foreign students from around the world, but sees little reason to afford the Native American the basic educational needs?

I do not have an accurate figure for the cost to the American people for the education of the foreign students brought here. However, I do know that all expenses are paid from the time that those students leave their respective countries until their return. Often attending the Ivy League Universities, with all expenses and pocket monies provided.

Historically the B.I.A. has perpetrated the great wrongs to the Indian people. Discriminating against nonfederally recognized Indians, urban or rural. Denying them protection, services and proper recognition. Therefore, we cannot believe that the B.I.A. bureaucracy has or will change its attitudes toward us.

Fragmented, the tribes of the East coast have been totally neglected by the government, as if they did not exist, until recently. Now that networking has been established and our presence announced, we have confronted America with the fact of our existence, flourishing population, sophistication in the political arena, and educated cadre of specialists with ideas being disseminated among Indian people, which the general public is not prepared to deal with.

The education communities have always refused to provide the American people with accurate information about American history. Neither has the mass media shown an interest concerning the Indians of the past or present stereotypes and misconceptions continue and are dictated by the desires of media production staffs.

It is also important that we oppose the use of racial classification to determine tribal political membership for services an funding by the B.I.A., which does violate the Federal Constitution.

Not content with controlling the rights of an Indian in his own tribe, the Federal Government expanded the use of the Blood Quantum to include Federal services arising from its trust responsibilities to Federally Recognized Tribes. The Federal policy of education, assimilation and dissolution of Indian tribes was enhanced by Blood Quantum status. Viewing entitlement of tribal properties and Federal services racially, rather than politically, which meant that interaction by members of one tribe with other tribes and non-Indians could only decrease the entitlement paid.

In Massachusetts, the Indian Education Act has been a significant piece of legislation for Indian children in the Public Schools. The Indian Education Act is a law which recognizes and finances the special educational needs of Indian children, under Part A. It has mean supplementary educational assistance to local educational agencies as well as Indian communities. It cannot be emphasized too strongly that it is not a part of the Federal trust relationship granted reservation Indians who live under the jurisdiction of B.I.A.

The Congressional "Declaration of Policy" notes, "In recognition of the special educational needs of Indian Students in the U.S.A., Congress hereby, declares it to be the policy of the U.S. to provide financial assistance to local educational agencies to develop and carry out elementary and secondary school programs especially designed to meet these special educational needs." (86 Stat. 335 Sec. 302.)

This policy was the original foundation of the law, which has done much to bring about active involvement of the Indian parents in the public school activities. Creating positive role models in the classroom for the Indian children to recognize and relate to; with greater awareness to the Non-Indian faculty and administration.

It has been observed that these special educational services have touched and changed the lives of Indians living in urban as well as rural areas; for terminated Indian tribes and the non-federally recognized tribes.

It is our request that the congressional delegations representing the states east of the Mississippi support our petition to keep the Indian Education within the U.S. Department of Education, in order that there will be continued funding and services to all Indians in America.

Senator Cohen. Ms. Winfree.

STATEMENT OF ROSA WINFREE, COORDINATOR, TITLE IV, PART A, INDIAN EDUCATION PROJECT, CHARLOTTE-MECKLENBERG SCHOOLS

Ms. Winfree. Mr. Chairman and members of the committee, thank you for the opportunity to address this committee. I am Rosa Winfree, director of the Indian education project for the Charlotte-Mecklenberg Schools, Charlotte, N.C. I am representing the North Carolina State Consortium on Indian Education.

It is a private nonprofit organization chartered by the State of North Carolina and representing 23 title IV, part A, Indian project grantees in the State.

There are a total of 23 projects serving 17,000 Indian students who have been certified by their parent committees and their respective school districts.

Of the above projects in the State of North Carolina, there are rural and urban communities being served—22 rural, 4 urban, and 1 near reservation title IV project.

Both part B grants represent one tribal organization which administers a preschool program and a program for gifted and talented students in the area of the performing arts. This is a new thing for Indian students in North Carolina.

With continual funding this project will provide Indian students many opportunities to become involved in the arts for the first time. This project is completing the second year of a 3-year grant and they have the active involvement of more than 200 Indian students that are gaining experience in the area of the arts.

There are two part C programs in our State funded to one rural tribal organization and one urban organization. With this type of diversification of rural, urban, and near reservation project, we extend an invitation to members of this committee to visit North Carolina to see a broad scope of project activities for all types of projects that are funded under the Indian Education Act.

This consortium represents members of parent committees, the school districts, and administrators. This is truly a concerted effort to maximize our talents and resources in our State.

This allows us to share resources, to become aware of how to mobilize both resources available to us through the grants as well as ideas and methodology. It increases and improves our relationships and ultimately impacts on local schools systems.

We convene quarterly. As we learn and grow together we develop together in the areas of project management, technical skills in the preparation of applications, and budget preparation. We learn how to effect a broad base educational decisionmaking situation which will in the end impact local school districts policies.

We are pleased to report that the past problems with the former Office of Indian Education—now the Office of Indian Programs—have been minimized under the new leadership of Dr. Frank Ryan.

Recognizing that consistency is necesary in the administration and the operation of the program, we also feel that it is important to realize and have the necessary flexibility to meet the diverse population needs for whom the legislation was enacted. We are aware of the high rate of turnover in that office and the need for more Indian staff. However we are willing to be patient so that new staff can be trained for the programs. We hope that they will be sensitive to the diverse needs of Indian people.

This office needs continued interest and support. Three of our projects in North Carolina have participated with the congressionally mandated title IV, part A, "National Impact Study." We have some concerns with the instrument that is used in this study which were prepared by Development Associates, Inc.

One section of this instrument is specifically designated for tribal leaders. Equal consideration is not given to Indian leaders outside of a tribal government situation. The grantees are asked and I quote:

> Do you feel that Title IV, Part A, Indian Education Project should be made a part of the tribal education program under the Indian Self-Determination Plan?

It is not inconceivable that this instrument has been designed for a unanimous opinion from federally recognized Indian tribes and Alaskan Natives. That part A project should be made available only to tribal governments or that eligibility for entitlement grants should be extended to tribal governments.

It is our feeling that the unanimous opinion would also support current proposals for the transfer of Indian education programs to the Bureau of Indian Affairs.

Since this agency has a responsibility for administering and operating tribal programs, we certainly support the concept of self-determination for all Indian tribes—bands, groups, and organizations—and opportunities for maximum Indian control.

However, we cannot support what we interpret as a question designed to record unanimous information to achieve the desires of only the minority rather than the provisions for meeting the needs of all eligible populations.

A particular concern to our grantees in North Carolina as well as urban and nonreservation Indian communities is the question of Indian preference in hiring. The strict application of section 7b of the Indian Self-Determination Act and the administration of all title IV programs is in conflict with the criteria used for eligibility in section 453 of Title IV Indian Education Act.

We would support an interpretation as currently exists in the legislation to give perference to Indians as defined in section 453. Such interpretation should be explicit in the rules and regulations governing title IV programs in order to avoid misunderstanding and misinterpretation of the intent of the legislation as well as the provisions with compliance with title IV rules and regulations.

However, section B should be strictly interpreted and applied in those projects serving eligible populations to meet those eligibility requirements, but not superimposed on Indian tribes, groups, and organizations for whom the section is not applicable.

In addition to these concerns we are concerned about the potential for transferring educational functions currently administered by the Federal Government to State governments. We would encourage careful consideration of such attempts to transfer Indian education functions to States. A deeper investigation should be made into past demonstration of effort for the education of Indian students.

We believe that past studies and research shows that the fact that there is an obvious and blatant lack of institutitional commitment to the education of Indians; both in public schools as well as programs and services administered by State governments.

In many States Indian populations do not represent significant percentages of the tribal State population. Consequently they are often neglected as a potential service populations.

It is our strong recommendation that government to government relations be maintained with the Indian tribes and organizations. With respect to public school education for Indian children, the Federal Government should maintain Federal to local relationships to insure that the funds that appropriated are best spent in meeting local and diverse needs; a matter which cannot be effectively coordinated with mixed Federal, State and local relationship.

With the exception of 600 students enrolled in public schools in North Carolina—these 600 students are enrolled near the Qwala boundary in Cherokee. The remaining 16,500 Indian students and their parents and ancestors have never enjoyed a Federal relationship.

We can therefore attest to the difficulties of moving through local and State government.

Based on our experience and knowledge, the lack of institutional commitment is due to untrained State and school personnel who have little knowledge and understanding of cultural pluralism and the importance of multicultural education toward all boys and girls in the American school system.

When American Indians and Alaskan Natives are in the minority, many times they get lost in the shuffle between black and white conflicts. Usually these relationships receive top priority in the school systems. Even in the State of North Carolina, where in our college there is a minority presence scholarship, Indian students are not eligible for this scholarship.

This action has served as a precedent for other State Indian relations. Consequently, Indians are not sought out for recruitment for higher education and teacher training institutions are not adequately preparing teachers for the teaching and instruction of Indian students. In view of these points, it is likely that we could not anticipate good State efforts and leadership to increase in the future with respect to providing adequate education for the Indian. We have made some specific accomplishments in North Carolina.

Senator COHEN. I must interrupt you here. We have second bells ringing and I am going to declare a recess for about 15 minutes so that I can get back. We will stand in recess.

[Recess taken.]

Senator COHEN. The committee will come to order. When we left off I believe Ms. Winfree was speaking.

Ms. WINFREE. In the interest of time I am just going to conclude with a few remarks. We strongly oppose the transfer of Indian education programs to the Bureau of Indian Affairs. We hope that some agency can be established and that the program can be moved intact as it is now in the Department of Education.

We want to say that we strongly support the research centers and the National Indian Advisory Council on Indian Education. We strongly support the continuation of both of these organizations. Thank you.

Senator COHEN. Thank you very much, Ms. Winfree. Without objection, your entire statement will be entered into the record at this point.

[The statement follows. Testimony resumes on p. 292.]

PREPARED STATEMENT OF THE NORTH CAROLINA STATE CONSORTIUM ON INDIAN EDUCATION PRESENTED BY ROSA WINFREE

I am pleased to represent the North Carolina State Consortium on Indian Education, a private non-profit organization chartered by the State of North Carolina and representing twenty-three Title IV Part A Indian Education grantees in the state.

There are a total of twenty-three Part A projects serving 17,000 Indian students who have been certified by their respective Title IV Parent Committees and their respective school districts in which they are enrolled. The total amount of Title IV Part A funds received by the twenty-three school districts is $2,164,298; additionally two Part B grantees to tribal organizations receive a total of $464,316, and two Part C grants to tribal organizations receive a total of $197,084. These grants do not reflect the total number of eligible grantees in the state of North Carolina due to the fact that there are other eligible school districts which have not applied for Part A funds and other tribal organizations which have applied for discretionary grants but have not been funded.

Of the above projects in the state of North Carolina, both rural and urban Indian communities are represented. There are a total of 22 rural, 4 urban and

1 near reservation Title IV projects funded under Part A; both Part B grants represents one tribal organization which administers a pre-school program and a program for the gifted and talented in the area of the performing arts. The two Part C programs are funded to one rural tribal organization and one urban tribal organization. With this type of diversification of rural, urban and near reservation projects, the Consortium extends a cordial invitation to this Committee to visit the projects in North Carolina in order to view their activities and progress as well as a potential site for reviewing a broad scope of project activities for all types of projects funded under the Indian Education Act.

Time will not permit us to provide you with an overview of the projects in North Carolina, however, collectively we in the Consortium can address collective strengths which we feel are indicative of our combined efforts in North Carolina. We are fortunate to claim the second largest funded Part A project in the country as well as the largest funded project East of the Mississippi.

Three of our Title IV Part A projects have cooperated and participated with the Congressionally mandated Title IV Part A National Impact Study. We in North Carolina have a concern relative to some sections of the instruments used for data collection. Specifically, in an instrument prepared under the subcontract by Development Associates, Inc., the instrument seeking data and comments from tribal and community leaders has been so designed as to perpetuate differences between such leadership. As a matter of fact, one section of this instrument is specifically designated for tribal leaders and equal consideration is not given to Indian leaders outside of a tribal government situation. The question is asked: "Do you feel that Title IV Part A Indian Education Act projects should be made part of the Tribal education program under the Indian self-determination plan?" Without any prior instructions or explanation to those individuals to whom this instrument is administered, it is not inconceivable that the instrument has been designed for a unanimous opinion from federally recognized Indian tribes and Alaskan Natives that Part A projects should be made available to only tribal governments or that eligibility for entitlement grants should be extended to tribal governments. It is our feeling that the unanimous opinion would also support current proposals for transfer of Title IV Indian Education Programs to the Bureau of Indian Affairs within the Department of Interior since this agency has the responsibility for administering and operating tribal education programs in conjunction with tribal governments.

We certainly support the concept of Indian self-determination for all Indian tribes, bands, groups and organizations and opportunities for maximum Indian control, however, we cannot support what we interpret as a question designed to record unanimous information to achieve the desires of only the minority rather than provision for meeting needs of all eligible populations.

Our Consortium represents members of Title IV Part A Parent Committees in all of the school districts as well as project coordinators and administrators, truly a concerted effort to maximize our talents and resources in an effort to move forward in the improvement of Indian education in our state. Our organizational effort allows us to share resources, to become aware of how to mobilize both those resources available to us through grants as well as ideas and methodology in increasing and improving our relationships and ultimately our impact with local educational agencies. We have convened quarterly as Indian parents who serve on parent committees, as project staff and administrators responsible for effecting coordination with our school districts and the larger Indian community, and with consultants, state agencies and other educational representatives to provide a unified and coordinated effort at what we feel we know best—how to serve the special educational needs and culturally related needs of Indian students in both public school districts as well as community and tribal based programs and services.

As we learn and grow together, so we develop together in areas of project management, liaison with communities and school districts, development of technical skills in the preparation of project applications and budget preparation, but most important, as we learn how best to access Indian professionals to positions of administration and educational policy and decision-making and how to effect a broad base of educational decision-making which impacts local school district policies by Indian parents, teachers of Indian students and Indian students themselves.

We are deeply concerned at reports of potential for transferring educational functions currently administered by the federal government to state governments. Students of educational administration know well that local educational agencies are bound to follow state policies and guidelines, however, certain legal responsibilities for administration and operations are reserved to local educational agencies through duly elected governing boards of education. We would encourage careful consideration of such attempts to transfer Indian education functions to states and a deeper investigation into past demonstration of effort for the education of Indian students. We believe that past studies and research have well documented the fact that there is an obvious and blatant lack of institutional commitment to the education of Indians, both in public schools as well as in programs and services administered by state governments.

Although funds have been allocated to states with Indians and Alaskan Natives included in funding allocations, Indians and Alaskan Natives have had limited access to these programs and services. In many states, Indian populations do not represent significant percentages of the total state populations, consequently, they are often neglected as potential service populations. It is our strong recommendation that government to government relations be maintained with Indian tribes and organizations, and in respect to public school education for Indian children, that the federal government maintain federal to local relationships to ensure that the funds appropriated are best spent in meeting local and diverse needs, a matter which cannot be effectively coordinated with a mixed federal-state-local relationship.

We in North Carolina cannot address problems in communications and relations with the Department of Interior and the Bureau of Indian Affairs. With the exception of the 600 students enrolled in public schools located near the Qualla Boundary Reservation in Cherokee, North Carolina, the remaining 16,500 Indian students and their parents and ancestors have never enjoyed a federal relationship. However, we can attest to the difficulties and problems in moving through local government, state government and even to the extent to seeking federal assistance, and certainly those of us who administer programs in the public schools would agree that additional structures and additional policies and rules and regulations would provide additional impediments to effective programs and efficient delivery systems to our students.

Based on our experience and our knowledge, the lack of institutional commitment is due to untrained state and school personnel who have no knowledge and understanding of cultural pluralism much less the need for differentiation of instruction and the importance of multi-cultural education to all boys and girls in the American public school system. Although we have moved forward with desegregated public schools, we should not hesitate to recognize the reality that desegregation itself does not provide equitable access to equal educational opportunity. As pointed out previously, when Indians and Alaskan Natives are in the minority of the population, they are too often and most always lost in the shuffle while white-Black conflicts and relationships receive priority. Such is the case in the state of North Carolina where the state plan for increased minority presence has excluded Indians from federal assistance programs for minorities. This action has served as a precedent for other state-Indian relations and consequently Indians are not sought out for recruitment for higher education and teacher training institutions are not adequately preparing professional teachers for the teaching and instruction of Indian students.

Except in those Indian communities where we are sufficient in population and numbers to ensure an awareness of our presence, and even in some of those, educational planners and administrators, curriculum specialists, and school principals have not accepted the concept of supplementary and compensatory educational programs and services to Indian students as a sound educational philosophy and approach to meeting well identified needs of Indian students. In view of these points, it is unlikely that we could anticipate state effort and leadership to increase in the future with respect to providing adequate education of Indian students in our public schools in North Carolina. One additional point is the fact that North Carolina has not been an educational reform state, and this in itself would reflect the priority and attention which Indians could expect in the area of Indian education.

We are pleased to report that the past problems experienced by Title IV grantees with the former Office of Indian Education, now the Office of Indian Programs, have been minimized. It would be absurd to expect that there would be no problems in the administration and operation of Title IV programs at any level—federal, state or local. Indian needs, interests, cultures and traditions are as diverse as the communities and reservations in which we are situated across this land.

Recognizing that consistency is necessary in administration and operation, effective Title IV administration and operation must also provide the necessary flexibility to meet the diversity of the population for whom the legislation has been enacted. We are aware of the high rate of staff turnover which has occurred during the last several months, however, we are willing to be patient as new leadership effects changes for improvement in the Office of Indian Programs, as new staff is trained, and as efforts are being made to evoke efficient and effective program administration and operations. Hopefully we have survived the advent of the Definition of Indian Study and the tremendous administrative burden which was placed on grantees in maintaining good rapport and working relationships with Indian communities in the revised OE 506 Indian Student Recertification Process. The problem of slow response time or lack of response has improved somewhat, but is still complicated due to high rates of staff turnover during these past few months. The greatest problem at this time is not one over which the Office of Indian Programs has control, and that problem relates to the current delay in announcement of fiscal year 1982 budget appropriations in order to begin programs July 1 in our respective school districts. We would strongly encourage the Congress to assist the Office of Indian Programs in attacking this age old problem which has affected program planning and program administration since the inception of Title IV.

We have fully supported the concept of the Regional Technical Assistance Centers, however, what we have found lacking has been opportunities for maximum input into planning and program development for the work plan of these Centers. We have previously recommended to the Center staff and in presentation to the National Advisory Council on Indian Education the importance of creating and establishing advisory councils or boards to the Regional Technical Assistance Centers to ensure for maximum input and planning to meet the technical assistance needs of grantees. It is our understanding that further recommendations and concerns will be forthcoming at a later date in testimony which has been received by the National Advisory Council on Indian Education. Certainly attention should be given to providing maximum on-site technical assistance to all small grantees, particularly those with funding levels of $50,000 or less. What has often been overlooked in determination of technical assistance needs is the degree of sophistication of some grantees, the commitment of school districts to plan for administrative structures capable of effective program service delivery systems, and the lack of budgets and commitment of school districts to provide for quantifiable programs and services to Indian students. The task of the Regional Technical Assistance Centers are as difficult as that of the Office of Indian Programs in effectively meeting the diverse needs of the grantees.

We are pleased to share some specific accomplishments of Title IV programs in North Carolina, some of which we are confident are equally shared by grantees across the Country. We are in fact, as demonstrated by the organization of our statewide Consortium on Indian Education, committed to the improvement of education for our Indian children. We have effectively organized and created, in keeping with the rules and regulations, working parent committees who take their responsibilities seriously and also take their powers of decision-making seriously. The legislative mandate for the powers and responsibilities vested in parent committees has provided opportunities for Indian parents to enter into shared decision-making with school administrators and even school boards in many instances. In some communities, parent committee members have moved beyond his role and have been successfully elected to serve on school boards as well as elected to other positions of leadership in Indian Affairs on local, county and state government boards, commissions and agencies. All grantees have been conscientious in the area of curriculum development focused on the local Indian history and heritage of the Indian tribes, bands and groups reflected in the eligible Indian student population served by their respective programs. Title IV grantees have participated in providing information, historical records and other data to assist the largest project in developing a model Indian studies curriculum adaptable to meeting the needs of all Indian communities in North Carolina.

Other multi-media materials including filmstrips, booklets, skills texts and 16mm film have been developed or are currently being developed which can also be adapted not only to school districts with high concentration of Indian students but as an effort to improve the social studies curriculum in all public schools in North Carolina with the objective of introducing North Carolina's native American Indian heritage and culture. Such curriculum development efforts have drawn on available resources from all communities, sensitive consultants and curriculum specialists, and the expertise of consultants from the N.C. State Department of Public Instruction for guidance in order to develop materials in keeping with the scope and sequence of the standard course of study in social studies. Never before has the State Department of Public Instruction been involved in such an effort, and although they have been most supportive, they are limited in their own expertise in knowledge of Indian history and culture for accepting any responsibility in this area.

Through the auspices of Title IV grantees, for the first time Indian students have been identified as gifted and talented, both in the area of academics and the performing arts, and have been provided opportunities to enroll in advanced summer enrichment programs on the campuses of colleges and universities. The benefits of such programs and services provide much support to Indian students, many of whom have never been afforded an opportunity to travel outside their rural isolated communities, who have interacted with other cultures only in isolation—socially, economically and politically, and who have never been recognized for any particular achievement during their school experiences. These students have been proud of the opportunity, willing to avail themselves of the opportunity, and have been charged with a sense of responsibility for representing their communities well in order to advance opportunities for other Indian students.

The Title IV Fellowship program has been the only opportunity for Indian students in North Carolina to pursue higher education with the exception of BEOG grants, a program in which they must compete with all other students seeking financial assistance. As a result of this opportunity, North Carolina can boast of successful graduates in the field of dentistry, three of whom are practicing in the state and one of whom serves as a Public Health Dentist for county government; seven lawyers who are practicing in North Carolina; and several students currently pursuing medical degrees and degrees in engineering.

Other students have successfully completed programs at the master's level and doctoral levels through American Indian Programs funded under Title IV, two of whom are serving as administrators in public school districts in North Carolina, one who is serving as a Counselor of Personnel Services, another who is seeking an advanced degree in Public Health Administration, and at least four students currently pursuing master's and doctoral studies. Without such assistance, no other financial aid for higher education would have been made available to these indiviual fellows. We cannot begin to estimate the impact that these successful role models will have on other Indian youth to venture out into careers and occupations heretofore unknown and virtually unaccessible to Indians in North Carolina.

Numerous of our grantees have availed themselves of opportunities to meet with the National Advisory Council on Indian Education, to provide testimony at several hearings of the Council, and to maintain communications with members of this Council. We are proud of the fact that we have had representation from North Carolina thru Presidential appointments to serve in this capacity.

We would strongly encourage continuous support for the efforts of the Council and would ask that such processes be maintained in order to extend opportunities for maximum input from all Indian communities, tribes and organizations. Equitable and diverse representation must be maintained in appointments to this Council in order to ensure that adequate attention and consideration be given to Indian tribes, organizations and communities within the eligible service populations for Title IV programs. Consequently, the Council should be directed to adequately reflect the interests, concerns and needs of all eligible service populations in carrying out their legislative mandate and in formulating recommendations affecting Indian Education.

Of particular concern to grantees in North Carolina as well as urban and nonreservation Indian communities is the question of Indian Preference. The strict application of Section 7(b) of the Indian Self-Determination Act in the administration of all Title IV programs is in conflict with the criteria for eligibility in Section 453 of the Title IV Indian Education Act. We would support an interpretation as currently exists in the legislation to give preference to Indians as defined in Section 453. Such interpretation should be explicit in the legislation in all parts of the Act where reference is made to preference to Indians and should also be explicit in the rules and regulations governing Title IV programs in order to avoid misunderstanding and mis-interpretation of the intent of the legislation as well as the provisions for compliance with Title IV rules and regulations. However, Section 7(b) should be strictly interpreted and applied in those projects serving eligible populations who meet the eligibility requirements of Section 7(b), but not superimposed on Indian tribes, bands, groups and organizations for whom the Section is not applicable.

According to most recent statistics available from the Bureau of Indian Affairs, 82 percent of Indian students served by the Bureau attend public schools. The larger Indian community has attempted to notify the United States Congress of their desire to retain Title IV programs outside the Deparment of Interior. The Congress should give consideration to not only the recommendations and input of national Indian organizations and other national councils and committees, but also to direct input through testimony and other communicative media directly from Indian tribes, Indian organizations and Indian communities. Communications in the interest of Indian people must expand beyond the national and organized entities.

In closing, we would encourage the United States Congress to maintain a commitment to improved educational opportunities for Indian children and adults, a commitment which we seriously doubt can be either transferred or accepted by any other level of government. We would also ask your close consideration of the legislative intent of the original Title IV Indian Education Act in providing programs and services to Indians and Alaskan Natives for whom other Indian programs and services neither exist nor are provided. In view of the preceding statements relative to how priorities are established and considerations given to Indians in consideration of minority programs, we strongly encourage your support for maintenance of Title IV Indian Education Programs intact and within the Deparment of Education or a similar structure capable of administering the intent of the Title IV Indian Education Act as intended and as mandated in previous Title IV legislation.

A famous North Carolinian, Thomas Wolfe, wrote in a poem, "Burning in the Night"—"To every man his chance, to every man regardless of his birth, his shining golden opportunity—to every man, the right to live, to work, to be himself and to become whatever thing his manhood and his wisdom can combine to make him—This, is the promise of America." On behalf of the 17,000 students enrolled in public schools in North Carolina, the 60,000 Indians in the state population, and on behalf of all American Indian and Alaskan Natives, we would ask you to let Thomas Wolfe's philosophy prevail in your deliberations, and fulfill your moral responsibility in supporting the reauthorization of the Title IV Indian Education Act.

Senator COHEN. Our next witness is Pauline Smith.

STATEMENT OF PAULINE SMITH, PROJECT MANAGER, CLEVELAND INDIAN EDUCATION

Ms. SMITH. Mr. Chairman, my name is Pauline Smith. I am a Comanche and I serve as project manager of the Cleveland Indian Education Services for the Cleveland schools. I would like to thank you for granting me the opportunity to be a part of this hearing.

In 1972 Congress passed the Indian Education Act. Moneys were appropriated and programs developed for Indian students in rural and urban areas to provide for the special educational and cultural needs of our children.

Ten short years have passed since that significant act became law. The first years were spent in trial, and sometimes error, because of the lack of training of the persons directing those programs.

For Indian people who have historically been treated in a paternalistic manner by our Great White Father in Washington, it was a new experience to be writing proposals and providing training for parents to encourage them to take an active part in their children's education in developing goals and objectives and being responsible for a budget.

With all of this it was not always possible to be aware of and to maintain statistical data. Those 10 years did not allow enough time to follow a student from kindergarten to the completion of high school. It was enough time to realize that these special programs could make a significant impact on the lives of Indian children who had been fortunate enough to participate.

The Cleveland schools have had a title IV–A program since 1974. The total student population this school year is 76,345 of which 484 or six-tenths of a percentage point are certified to participate in the various components of our project.

Because of budget limitations, it is difficult to attend to the needs of all of the 484 students. We have a newsletter; we visit homes of parents where problems have been indicated; and we have a home school visitor who makes checks at schools with regard to attendance. We send letters out. Through school visits, more than half of our students have been personally contacted.

During my 5 years as project manager, I have seen parents who have been members of the mandated parent committee getting enough confidence to become active in other aspects of the Cleveland community.

In addition to the parent committee, they have participated in the title 1 parent advisory council, the Council for Economic Opportunities for Greater Cleveland, Head Start programs, PTA's and cultural events in the Cleveland area.

Currently the parent committee is involved in a newly formed coalition of ethnic and cultural groups to present a resolution to the board of education regarding the importance of supporting multicultural and bilingual education in the Cleveland schools.

The parent training offered by the title IV–A project has made a significant contribution in encouraging parents to become involved.

During the early years of the program there was a strong desire indicated by the parents that their children become aware of and maintain a strong identity as Indian people. As a result activities were designed through the direction of the parents to provide traditional arts, crafts, dances, history and other evidence of tribal pride.

As the parents became more aware of the educational system, they became more concerned with the fact that some of their students were not succeeding as well as they should. They insisted on special tutors for those students who were not receiving services from the school system.

In 1980 the parents looked at various problems that were indicated with regard to needs assessments and felt that more emphasis should be placed on the areas of dropouts and poor attendance of their students. We began a concerted effort to participate with other programs within the school system to assure that our Indian students were receiving the assistance needed in their academic subjects.

Desegregation had begun in the Cleveland schools by this time which resulted in our students being bused to schools all over the district. At this time, rather than having our students concentrated in just a few schools near their homes, they are now being bused for as long as 45 minutes from their homes. This resulted in our 484 students being scattered throughout 103 schools. This has presented some difficulty for them to maintain a closeness with each other.

We have, however, established with the assistance of some students, a Native American Student Council which meets monthly. It usually meets in a central location or a school located in the downtown area.

Realizing that many of our Indian students have not had the opportunity or the inclination to participate in school activities, we have attempted to provide educational opportunities which will enhance their knowledge of careers. For instance, this year the students have had an opportunity to visit the Louis Research Center at NASA, a Plato Computer Center at one of the campuses of the local community college where they had a good time with the terminals while learning about careers in the computer industry, and they visited three schools in the Cleveland school district—one relating to data processing, food management and secretarial skills and another dealing with auto mechanics and related skills. Today they are meeting in a health careers magnet school.

These meetings are conducted by the students. They learn leadership and participatory skills. They realize the importance of staying in schools so that they may become productive members of society having opportunities to meet other Indian students and to increase their sense of pride in their Indian heritage.

These junior and senior high school students come from 15 to 20 different schools in the district. Since our budget does not allow the luxury of having our own transportation, and because the segregation schedules make it difficult to get a bus when needed, the reliance has been on parents, staff, and public transportation to transport these students to the meetings. In June, the students are having a ceremony to recognize and pay tribute to the graduating seniors. Since the organizational meeting in January 1983, students have participated in this component of the project.

During the years that Cleveland's title IV–A has been in existence, positive communication has been established with the LEA which has provided space and guidance for this project. However, because of severe financial problems in the Cleveland public schools, who were $30 million in debt last year, no financial assistance has been provided.

While Ohio has no State Indian education office, the Ohio Department of Education, through the SEA office, has demonstrated a cooperative attitude by including the Indian education program in conferences and by providing some technical assistance through part-time consultants.

For our geographic area, excellent technical assistance has been provided since 1980 by the Resource and the Evaluation Center One, the Native American Research Institute in Washington, D.C., which is funded through the Indian Education Act. Through workshops and onsite visits, this center has provided training and technical assistance on needs assessments, project design, parent committee training, and project management. The services have been invaluable to projects such as ours and should be continued.

There was a quote in the Education Daily of February 8, 1982, and it says that out of the Nation's 221,000 Indian children who attend

BIA schools or public schools that receive Indian education funds, 77 percent attend public schools and 22 percent attend BIA schools.

In my humble opinion, part A of title IV, Indian Education Act, provides needed assistance for the majority of school-age Indian children, and these programs, together with the experience gained through the management of these projects, should be continued outside of BIA's control. I am firmly opposed to the transfer of title IV programs to the BIA.

If the proposed transfer of these programs takes place, it could be safely assumed that 75,000 Indian students of nonfederally recognized tribes, terminated tribes, and nontribal Indians would be excluded from continuing Indian education programs and services.

I respectfully submit that if an Indian student does not have a number, allotment, or otherwise from the BIA, it does not make him or her any less of an Indian.

Thank you for granting me this opportunity to speak to you today on behalf of the parents and students who have benefited from title IV A of the Indian Education Act. I will be pleased to respond to any questions.

Senator COHEN. Thank you very much.

Please proceed, Ms. Martin.

STATEMENT OF MARLENE MARTIN, DIRECTOR, NATIVE AMERICAN RESOURCE PROGRAM, PUBLIC SCHOOL 19, BUFFALO BOARD OF EDUCATION, BUFFALO, N.Y., APPEARING FOR FRANCES HILL

Ms. MARTIN. I am Marlene Martin from the Native American Resources program with the Buffalo Board of Education, Buffalo, N.Y. I will make my comments brief.

I do want to call your attention to a brief overview of the situation faced by Native Americans because it is crucial to the arguments that we present you. It is necessary to make you aware of the time and energy that has been expended "learning the ropes."

We, you and I together, are dealing with the effects of the nonparticipation of Native American people in education. We should always bear in mind the grim statistics of the low unemployment, poor housing, and health situations which are a result of that nonparticipation.

This is an effect of decades of nonresponsiveness of educational systems in the various States to the need of the many Native American nations across the land.

Since the passage of the Indian Education Act in 1972, Native American people at the local level have responded to the opportunity to have input into the education of their children. There has been a great output of energy to master the language and the procedure of modern schooling in order to gain acceptance and credibility in that system.

It was in 1973 when these programs began. Since then, it has actually only been a very short time. The Buffalo Native American resource program has developed a program which presently services 675 students. We have a staff of 10 to provide students with the cultural enrichment component and a support program for home/school communciation in the areas of attendance, careers, medical, legal, and social referrals.

Due to the positive impact of Buffalo's title IV–A Native American resource program, the following results have occurred over the past 9 years.

We have a decrease in the Native American dropout rate, an increase in student attendance, greater parental involvement, better school community relations, more students attending postsecondary schools, an increase in non-Indian awareness of Native American cultures through dissemination of curriculum information, greater Board of Education and community support. There is a Native American on the Buffalo Board of Education. Buffalo has a Native American magnet school and the Board of Education has made additional contributions such as in LEA funding of a teacher position. We have improved attitudes toward public school education among students and parents alike. There has been greater participation in school programs. We have provided Native American role models for Native American students to identify with.

The accomplishment of these goals and objectives was no small task. I will not reiterate all of the comments that many of the panel members have brought to your attention.

It was important to mention these accomplishments in our past to indicate that the integrity that the title IV programs are now working under exists because they have worked through the administrative problems. They are enjoying high integrity with the Indian education programs under the Department of Education.

Any consideration of a transfer from that location would be opposed by the Buffalo Board of Education and the Native American resource community program and the Native American community there. It is our understanding that such a transfer of administrative responsibility is not legal but it must have a legal congressional approval.

In the unique relationship of the Federal Government and Native American people, education is the trust responsibility of the U.S. Government. I do not think it is necessary to detail here the economic history of the various nations. What I wanted to point out was that because of those economic conditions, many people have left their territories. That does not mean that because they have had to leave their territories or that because the Government instituted a relocation program in the 1950's, that these people are any less Indian or any less entitled to the educational services.

Additional concerns regarding any transfer of the Indian Education Programs Office includes the levels of funding to do an effective program. That is our concern. It is our understanding that the Bureau of Indian Affairs experienced no cuts this year. This indeed raises several questions. Does that mean that if title IV were to be transferred that there would be an increase in Bureau funding? Does it mean that title IV would then experience an additional cut under the recommendations that are presently in existence? How would the funding levels of title IV be mandated?

Further, the track record of the BIA, unfortunately, with regard to the administration of education is not one of great success. We know all too well that they have not always required schools to be responsive to the needs of Indian students and this is one of the reasons that there is a title IV program.

We feel very strongly that with parental input that we are developing all of those programs. Today those title IV programs are under scrutiny in a congressionally ordered impact study. We feel that no decision should be made until the results of that study are known.

I feel confident that title IV overall is achieving positive results. The major reason is the input of the Native American parents. They determine needs, design and monitor programs. This has all been accomplished in this short period of time. I am sure that they will do even better as time and funding go on.

It is our feeling in Buffalo that title IV should be strengthened; not diluted or dissolved. This can be accomplished by maintaining present funding levels, assuring funding for even 20 to 25 years since the situation being acted upon is by the historical effects of decades. The effects of history cannot be changed in 5 or 10 years.

The parent committees should have a channel of redress that they can appeal to. The Native American Research Institute Centers have been very helpful and we strongly support their continuance.

Essentially our real concern is for our people to have productive lives. Effective educational programs conducted and administered by caring, responsive people can help in this objective. It is also in the interest of the longrun economy for everyone. We urge your support for sustaining adequate funding levels of title IV in an administrative office not affiliated with the BIA. Thank you.

Senator COHEN. Thank you very much, Ms. Martin.

I want to apologize to the panel for cutting you short, but we have three more panels of witnesses that are scheduled to appear today. Your statements have been most helpful.

We have a separate panelist, John Rouillard. He is the first vice chairperson, and Francis McKinley, a member of the National Advisory Council on Indian Education, accompanied by Mr. Michael Doss, executive director.

STATEMENTS OF JOHN ROUILLARD, FIRST VICE CHAIRPERSON; FRANCIS McKINLEY, MEMBER; AND MICHAEL P. DOSS, EXECUTIVE DIRECTOR, ALL OF THE NATIONAL ADVISORY COUNCIL ON INDIAN EDUCATION

Mr. ROUILLARD. My name is John Rouillard. I would like to introduce Michael Doss who is the executive director of the National Advisory Council.

Senator COHEN. Mr. Doss would you like to speak?

Mr. DOSS. Yes, I will. Good morning, Mr. Chairman. My name is Dr. Michael Doss, executive director of the National Advisory Council on Indian Education.

As specifically requested by the Senate Select Committee on Indian Affairs, the council will present testimony today regarding a variety of topics concerning Indian education. At this time it is an honor to introduce to you two members of the council who will present testimony.

First of all I would like to introduce Mr. Francis McKinley, a member of the council and I would also like to note that Mr. McKinley has been in Indian affairs and Indian education for well over 30 years. He participated in the development of the 1969 report with the Kennedy Subcommittee on Indian Education, entitled Indian Education—A National Tragedy and A National Challenge. I believe he has a unique perspective that he will be able to share with you shortly.

In addition, Mr. John Rouillard is with us today. Mr. Rouillard is the first vice chairperson of the National Advisory Council and also the chairman of our Legislative Rules and Regulations Committee. Mr. Rouillard has been a leader in our efforts toward reauthorization of the Indian Education Act itself. I would like to, at this time, turn the discussion over to Mr. McKinley.

Senator COHEN. Mr. McKinley.

Mr. MCKINLEY. Thank you, Dr. Doss. Mr. Chairman and members of the Senate Select Committee on Indian Affairs, my name is Francis McKinley. Mr. Rouillard and I have been designated by the National Advisory Council on Indian Education to present the council's view on several current critical American and Alaskan Native education issues.

Our presence here today is the fulfillment of one of the major responsibilities of the National Advisory Council on Indian Education. That responsibility is to advise and inform the Congress of the United States on Indian education. I thank you for the opportunity to present our views.

I am addressing my remarks specifically to four critical Indian education issues that concern all of us. The first is the transfer of the Indian Education Act programs to the Department or rather from the Department of Education to the Department of the Interior.

The second issue is the trust responsibility for Indian education. The third issue involves the budget reductions for Indian education programs. The fourth and final issue is the reauthorization of the Indian Education Act.

The National Advisory Council on Indian Education has made several rather important recommendations. These recommendations were not spur of the moment things, nor were they the result of a feeling that the good things ought to continue. They were simply following major patterns and trends that have been developing for over 30 years in Indian education and Indian affairs.

I ask you to bear with me for a few moments while I recite some major landmarks in the history of Indian education to give you the background for the reasons why the council has acted in the manner that it has.

In the early 1950's, I and many Indian leaders worked cooperatively with the Bureau of Indian Affairs in facilitating the entry of Indian and Native Alaskan students into the public school system.

It was felt that: First, change was imminent in the education policy because Indian children were not receiving full opportunities for education; second, the Department of the Interior was not education-oriented. and lacked the manpower, resources, interest in the education, and the social concerns of Indians; third, education ranked as a low-priority item in the Bureau of Indian Affairs activities—a situation which has not changed today despite large educational allocations in the budget; fourth, the need to involve Indian communities and Indian parents in the education of their children through local school systems; and fifth, assurances by the Federal Government that continued financial support would be rendered through educational programs such as the Johnson-O'Malley Act.

The transfer has been made so that now over two-thirds of the American Indian and Alaskan Native children attend public schools while one-third attend private Indian-controlled Bureau of Indian Affairs institutions or parochial schools.

The point that I want to make in this recitation is the major shifts in the Federal Government's responsibility for Indian education.

Some 30 years ago it was clearly recognized that the Department of Interior and the Bureau of Indian Affairs were not the entities upon whom Indian parents could entrust the responsibility for providing their children with quality education.

Another significant thing happened some 30 years ago and that was the transfer of the Indian Health Service to the U.S. Public Health Service. This was accomplished in 1954. One of the principle arguments against the transfer was that it would alter and erode the historic special relationship between the Federal Government and the American Indians.

The proponents for the health services transfer argued that the Department of the Interior and the Bureau of Indian Affairs were not the special depositories for trust responsibility. It was the entire Federal Government and its infrastructure which assumed the trust responsibilities for American Indians.

The transfer of the Indian Health Service to the U.S. Public Health Service would not weaken trust responsibilities but strengthen them.

The Indian support for past changes in the status quo were not abrogating treaties and agreements between the American Indians and the U.S. Government. The changes were supported in order to spread Federal trust responsibilities to other branches of the Government and to secure specialized services, obtain new insights, gain greater public support and thereby improve service delivery.

In reciting the Indian Health Service transfer, I am pointing out that a major break in the traditional Indian policy occurred because the merits of such change were recognized by the national administration and the Congress of the United States.

Moreover, the enlarging of the trust responsibilities throughout the Federal Government was accepted and recognized.

Another expansion of the Federal services for Indians occurred in the 1960's. A special task force was created in 1963 and I served as its chairman. Against much opposition from Indian leaders and the Bureau of Indian Affairs, the task force on Indian poverty recommended to the President and the Congress of the United States that a special Indian desk be established in the U.S. Office of Economic Opportunity to administer Indian programs.

The advocates for breaking the exclusive reliance upon the Department of the Interior cited: One, the instability and the changing policies of the Bureau of Indian Affairs which was going through a lot of reorganization—an activity that is still being vigorously pursued today;

Two, the rigidity and tradition-bound Bureau of Indian Affairs personnel who were unlikely to deviate from their past paternalistic roles and who would resist the dynamic activist change in the liberal philosophy inherent in the war on poverty programs; and

Three, the urgent need to provide Federal Government services to many Indian groups—for example the urban Indians, nonfederally recognized tribes, State-recognized Indian groups and other isolated Indian communities who had been systematically excluded from exercising their full citizenship rights and who did not meet the Bureau of Indian Affairs criteria for services; and the need to have the Federal Government reinforce its trust responsibility by involving its multifarious departments and agencies.

The success of this change and the traditional Indian-Federal Government relationship is demonstrated by the subsequent establishment of an Indian desk in the Departments of Commerce, Labor, Justice, Health, Education and Welfare and other agencies.

It was disturbing in the 1960's to discover that the American Indian and Native Alaskans had not made much progress with respect to education evident from the very poor educational situation found by Louis Meriam in 1928 in his survey at that time. Dr. Robert Havinghurst of the University of Chicago conducted one of the first national Indian studies. His published report in 1968 confirmed what Indian educators and practitioners already knew from countless studies and surveys of Indian education.

The Havinghurst study indicated that: (1) Indians were not having successful educational experiences—with excessive dropout rates, poor attendance, and low achievement when compared with their non-Indian peers; (2) Indians had no control over their educational programs; (3) there was no autonomy to the Indians regarding the Federal funds that were being expended by the Federal Government for Indian education; and (4) there was a need for basic adult education for Indians.

A special Senate Subcommittee on Indian Education chaired by the late Senator Robert Kennedy initiated a study that resulted in the 1969 subcommittee report, "Indian Education—A National Tragedy, a National Challenge." This report plus other similar studies, including one that I coauthored entitled "Who Should Control Indian Education," led to the enactment of the Indian Education Act.

The Indian Education Act provides legislative authority for programs designed to meet with the special education and cultural related needs of American Indians. The two most important features of the Indian Education Act were to provide direct parent involvement and to provide expanded services to American Indians who had not received special Government services prior to that time. These groups include the urban Indians, nonfederally recognized tribes, State-recognized tribes, terminated Indians, and so on.

For over 20 years we have set up a policy that indicated that it is not just the Department of the Interior or the Bureau of Indian Affairs, but it is all agencies of the Federal Government which has the trust responsibility for Indian education. In view of these precedents, the National Indian Education Council has recommended that the transfer not be made. It also recommends that it be explicitly recognized that the Federal Government bears trust responsibility for Indian education contrary to some of the remarks that we have been hearing lately.

Senator **Cohen**. Which remarks are you referring to specifically?

Mr. **McKinley**. Some of the remarks that I have read from the testimony of the Department of the Interior officials who have testified here that there is a question as to whether Indian education is a trust responsibility of the Federal Government.

Senator **Cohen**. They have indicated that it is not?

Mr. **McKinley**. Pardon?

Senator **Cohen**. The statements that you have been reading suggest that the Department of the Interior takes the position that Indian education is not——

Mr. **McKinley**. It is not part of the trust responsibility, yes. We maintain that it is and precedent supports it.

Senator **Cohen**. I am sorry. You may continue.

Mr. **McKinley**. In the interest of time, I will summarize. I have made some suggestions about funding levels. I want to compliment the other panel that was here who supported our views and also indicated the success of their programs. I would just like to point out that all of these programs have been done without having enough funding. They have not been funded to the full extent that we would like to see, but nevertheless great strides are being made. I think at this time further support is necessary for us to reach—we have reached a point where we are getting near the plateau of finally achieving dramatic results. We need further support from the Congress and from the President to continue.

Senator **Cohen**. Thank you, Mr. McKinley. Without objection, your complete statement will be made a part of the record following the testimony of your panel.

I am trying to alert the next panel. We probably will be recessing at noon until 2 p.m., that is, unless you have a short statement. Otherwise we will be recessing at about 11:55 a.m. We will have the balance of the witnesses testify from 2 p.m. on this afternoon. Those in the audience, if you wish to go now, you may, or if you wish to stay, you may.

Mr. **Rouillard**. Thank you, Mr. Chairman. My name is John Rouillard. I am a member of the Flandreau of Santee Sioux Tribe of Flandreau, S. Dak. I represent the National Advisory Council on Indian Education as first vice chairperson and as chairman of the rules and regulations committee. By profession, I am an associate professor of American Indian studies at San Diego State University in San Diego, Calif.

I would like to add here that I have considered it a very high honor to represent the American Indian population as a member of this national council. As I am sure all of my colleagues on the council agree, it is an awesome and challenging, important responsibility.

At the request of the council I appear before you this morning to present testimony on behalf of the Indian people we represent regarding key concerns about the future of Indian education programs.

Through responsibility as chairman of the legislative rules and regulations committee, I have heard and read testimony from witnesses throughout the Nation over the past 2 years regarding their interest in the reauthorization of the Indian Education Act.

In order to prepare a summary which we will submit eventually to Congress—we will meet next month in Tempe, Ariz. in order to consolidate all of the testimony collected. We have collected a separate volume of testimony from each of the field hearings that were held. Information on reauthorization provided to the council was made possible because of notice sent through the Federal Register, our resource centers newsletter, and by word of mouth that we were interested in hearing from the Indian community testimony regarding the strengths and weaknesses of the Indian Education Act.

The committee is pleased to report that the overwhelming evidence of written and spoken testimony has been very supportive of the act. Criticisms that were heard by and large reflected aspects of the law which weakened or inhibited the participation of Indian parents on advisory committees in their desire to help determine program policy.

We have determined through this testimony that it is going to be possible to provide smoother operation between the Department of Education and the programs in the schools if we will look at the possibility of recommending regulation changes to the Secretary.

The council has provided this committee with bound volumes of testimony received from the six previous field hearings and at this time we would like to present to you, for the record, a seventh volume which contains the testimony heard recently in Cambridge, Mass. This was the concluding session of nationwide hearings that we have conducted in order to give us the best possible cross section of interest from the Indian community.

We will continue to accept written testimony by mail throughout the coming year and we will transmit such testimony directly to the Congress.

In meeting their responsibility, this committee—the legislative rules and regulations committee, is going to meet next month to discuss and recommend regulation changes which, under the present legislation, may help to smooth out the operation of the Indian Education Act for the coming year.

I feel it is important for the Senate Select Committee to be reminded of the special responsibility the national advisory council has in relation to the operation of all Indian education programs.

This council is the only citizens council with a legislated mandate to oversee Indian education. It is the only official council of its type in the history of the Nation that makes provision for nationwide representation of Indian people from many diverse tribes.

The council takes its mandate very seriously and has been energetically involved in advising the Secretary, the President, and Congress about our concerns regarding the future of Indian education.

The national council has expressed formal opposition to the proposed transfer of the education programs to the Department of the Interior. As you know, this proposed transfer is a companion plan to the administration's proposal to dismantle the Department of Education.

The council has heard an overwhelming amount of testimony in the Indian community at large regarding their opposition to this plan.

Senator **Cohen**. I would like to interrupt you just a moment. Is it the opposition to the abolishment of the Department of Education?

Mr. **Rouillard**. Both.

Senator **Cohen**. If one is preordained as such and they are going to dismantle the DOE, what would your recommendation be as to where the education programs ought to reside?

Mr. **Rouillard**. This council went on record before the President's budget was published with a resolution which proclaimed that in the event of the disestablishment of the Department of Education it will be our recommendation—the full resolution is appendix A of our written testimony—to the Congress that should this happen—disestablishment of education—all Indian education programs, title IV, parts A, B, C, and D, along with all other programs directly benefiting Indian children and adults—which including impact aid and others that are administered within the Department of Education, be transferred intact to an independent agency of a foundation other than the Department of the Interior. That is our position.

Senator **Cohen**. It is pretty apparent of a widespread distrust of the Department of Interior. I have not heard anyone say much in the way of positive accomplishments on behalf of the BIA, particularly in the field of education.

Mr. **Rouillard**. Mr. McKinley's points and those made by other witnesses reflect that it is not so much the distrust of the Bureau of Indian Affairs as the fact that the program priority for education has always been so low. It seems to be out of joint with the whole reality of the importance of trust responsibility for the most important resource of all that the human resource of Indian people, the minds of our children.

Senator **Cohen**. What has been the priority in your judgment of the BIA in the allocation of their resources?

Mr. **Rouillard**. I think the priorities have been to respond to tribal leadership in requesting budget for housing, roads, and the types of things that are seen as more immediately beneficial in terms of economy——

Senator **Cohen**. Sort of the same things that school boards go through at the local level?

Mr. **Rouillard**. Exactly.

Senator **Cohen**. They respond to whether you are going to have new paved roads, as to whether you are going to invest the money in education. I do not understand it. I really do not understand how we set our priorities because I maintain that you can live in poverty, you can go without food and to some degree you can go without clothing. You can go without all the amenities that we are striving to achieve, but the one thing that you cannot go without is education. If you do not have that, you can never hope to achieve anything else.

This world is turning at an ever-faster pace. I mentioned this yesterday. The reason that it is so important to me is that a lot of us are being called upon to go to all these great commencements and it is an exciting experience to see that kind of optimism, about being able to control one's future and the future of this country and this globe. It is all dependent upon the quality of education.

It is hard to say that we have a priority here. The housing comes first, then roads and all the other amenities. But if you do not have the education, they will be for nothing. It is difficult to understand that.

Mr. **Rouillard.** I agree. It is the most difficult thing in the world to try to understand the priorities and the fact that on the potential of a person you cannot really put a dollar value. That is more or less the future.

Senator **Cohen.** The world is becoming more complex. The more complex it becomes the more requirement there is for education, it seems to me. If we do not place education at a high priority, we are going to relegate entire generations of people, or races of people, into a perpetual state of intellectual inferiority. That intellectual inferiority will mean that it will have economic consequences as well.

Mr. **Rouillard.** On the other hand, I really feel that it is a point that I would like to put into the record here. The Indian Education Act has responded to an important need to the Indian communities which have never been met by the Nation's school systems or the Federal school systems for Indians. The failure of the Nation's school systems to acknowledge a cultural element—the historical contribution that is part of the evidence of the durability of Indian people in this Nation.

The cultural strength and contribution of tribal societies have never been incorporated as a facet of the cultural studies which contribute to the fabric of the humanities and social sciences as they are taught in our American schools.

As a result, the language of the Indian Education Act includes the language that acknowledges the unique cultural differences. The public school system and the Bureau school systems have long been totally influenced by the melting pot concept of social evolution through the educational process.

Time and again through various reports and studies, it has been demonstrated that the failure in Indian education can often be directly attributed to problems created by the educational philosophy which is focused around the development of a monocultural society.

The Indian Bureau schools, subscribing as they have for so many generations to the assimilation philosophy, seem to be in greater opposition to pluralistic concept which has grown out of the title IV program for Indians. The Bureau of Indian Affairs, as has been pointed out previously, is standing in opposition to the concept of education as a trust responsibility whereas NACIE has unanimously stood for the resolution which proclaims our support of the concept.

Senator **Cohen.** Let me just stop you here for a moment. It is always difficult when you are talking about education to prove anything in the short term. You can point to failures. Everyone has acknowledged that there have been a lot of failures in our educational system. It is hard not to point to gains. It takes so long before you realize those gains. When you plant those seeds it takes a long time to say what the fruit is and whether it is ripe or not. The gains, limited as they might be in terms of perceiving them in a very short period of time—but since there has been the existence of the Indian Education Act what kind of gains—we heard one prior witness who was starting to talk about the positive aspects. I think you ought to focus more on those if you can in the next few minutes. Tell me about some of the positive aspects of Indian education programs?

Mr. ROUILLARD. I think one of the most important aspects, from my perspective, is the fact that there have been a significant number of young Indian people who have been assisted in entering education professions through the Indian community colleges and the public and private institutions through the Indian Education Act.

The entry into teacher, education administration, and counseling training have given the Indian communities a significant increase in the number of Indian people who are willing to and are anxious to go back and work with Indian communities and tribal schools. I think that is one of the most important aspects of Indian education programs in recent years.

Senator COHEN. What you are saying is that the cultural pride or sense of self-pride has had a direct correlation between educational achievement.

Mr. ROUILLARD. Definitely. There is nothing to be gained in terms of economic appeal by entering into teaching professions. Young people know that the best thing that they can do to help to strengthen the tribal integrity of their people or other tribes is to take that kind of academic preparation back and try to be influential to young people growing up under their care.

Another positive gain, and one we have heard time and time again throughout the country in our hearings, has to do with the fact that Indian people are now being heard in their school systems. The public schools are hearing from the title IV parent committees. They are asking questions and they are participating. They are also complaining because they are not allowed enough authority to design programs, but the schools have had to respond to what they are saying about the education and the programs that relate to their Indian children. That is a tremendous influence.

By and large Indian parents just backed off and stayed out of the scene in the past.

Senator COHEN. What about some traditional standards that were observed? For example, a decrease in high school dropouts; a decrease in some of the social problems that have always been attendant with low education—early dropouts, alcoholism—all of these things that are combined or have been combined in the past. What sort of progress have you seen that you think is a direct correlation between the development of Indian education programs and dealing with some of the attendant consequences?

Mr. ROUILLARD. I do not have any hard data at hand but we do have a pretty positive impression from the Indian community who talked to us or from what we have observed in our work with the Indian community.

Mr. McKinley and I both work in the Southwest area of the country. I think we can both say that we have seen a tremendous increase in school attainment and attitude as a result of these special programs that are there.

I think it is important to consider, not just the Indian Education Act, but the fact that some communities are now involved in bilingual education or language strengthening programs that are really reinforced. The feeling is that the home culture is having a greater worth in relationship to what they felt in the past—all of those things in a large sense have been improved. However, there is no dramatic change at this point. You cannot expect a dramatic change in just the space of one decade.

Senator COHEN. I agree with that. What I was trying to get at—perhaps I should have these questions reserved for the panel that will testify later, the superintendents.

I think there is some disagreement as far as BIA is concerned. They will point to the fact that you really do not need some of these off reservation schools and that it only affects about 10 percent of the population as far as special needs are concerned.

I think it would be important in looking at the record to see exactly what the needs are and what can be identified as a gain, recognizing the fact that in education you really do not know, sometimes 30 or 40 years down the road, what kind of individual you have helped to produce.

When you talk about education, I have always felt that the best definition of education is the repository of things forgotten. It is what is left over after you have forgotten everything you started out to learn. That really is the test to me as to whether you want to continue to learn and to continue to expand or whether you are just trying to have some kind of static measurements that you can get by on a high school qualification test. That is it.

It is far more than that. It is ever-developing. You cannot really measure it in the kind of terms that I am asking you. Given that fact, I think we have to point to some other positive steps and positive gains that have been made recognizing it over a span of time and that it is incremental; it is slow steps. You are trying to reverse hundreds of years of policies.

Mr. ROUILLARD. I think that is one of the problems in this particular activity. Any kind of Federal program in education seems to expect a sort of an economic payoff that you can produce in dollars and cents over a short period of time and does not recognize the philosophical problem that you just described, Senator.

It is easier to recognize that education is knowledge, that we do not know something, than to have a position or a situation where we do not know what we do not know. This is often the case that we face throughout the Nation.

Senator COHEN. Pretty soon you are going to start quoting Socrates to me. I can feel that coming on. Ignorance is the beginning of wisdom.

Mr. ROUILLARD. I would like to go on to another issue here because, as council members, we recognize that we need funding for all educational programs including the Indian community colleges and the ones provided by the Indian Heath Services in order to train more Indian health professionals.

One critical Indian education program is the impact aid program authorized by Public Law 81–874. The council strongly urges the Congress and the administration to provide full and adequate funding levels no less than that contained in the fiscal year budget for all impact aid purposes.

At this point, I would like to read the resolution that our council took as action at our last meeting in Cambridge, Mass., regarding the impact aid programs:

Whereas the National Advisory Council on Indian Education is mandated by Federal law contained in Public Law 92-318 section 442(b), to advise the Secretary of the Department of Education with respect to the administration of any program which Indian children or adults participate from which they can benefit, including the impact aid laws contained in Public Law 81-874 as amended, and,

Whereas impact aid funding to the public schools in lieu of local property taxes represents the Federal Government's single largest expenditure for the delivery of educational services to Indian people and therefore represents a manifestation of the Federal trust relationship between the Federal Government and the Indian tribes, and,

Whereas recent and planned substantial cutbacks in the funding level for these purposes have severally affected the ability of some public school districts to continue to function, and

Whereas Title II of Public Law 95-561 amended Public Law 81-874 so as to require public school boards to actively solicit meaningful Indian parental and tribal input into all facets of the school program by the impact aid monies, Title II further provides to Indian parents and tribal authorities a formal administrative complaint mechanism when they feel that the school district is not in compliance with the Federal requirements, and

Whereas the National Advisory Council on Indian Education acknowledges that the formal administrative complaint mechanism has proven to be a positive influence in the education of Indian students in the public schools. Now therefore be it

Resolved, That the National Advisory Council on Indian Education strongly urges the Congress and the Administration to provide full and adequate funding levels no less than that contained in the fiscal year 1981 budget for all impact aid purposes, and,

Be it further resolved, That the formal administrative complaint process in the impact aid laws continue to be properly handled by and remain under the control of the Department of Education.

Senator COHEN. Thank you very much, Mr. Rouillard. Mr. Doss.

Mr. DOSS. I have no further comments, Mr. Chairman.

Senator COHEN. Thank you all, gentlemen. Your prepared statements will be entered in the record at this point.

[The statements follow. Testimony resumes on p. 364.]

PREPARED STATEMENT OF THE NATIONAL ADVISORY COUNCIL ON INDIAN EDUCATION, PRESENTED BY MR. JOHN ROUILLARD, MR. FRANCIS McKINLEY, AND DR. MICHAEL P. DOSS

Good morning Mr. Chairman and members of the Senate Select Committee on Indian Affairs. My name is Dr. Mike Doss, the Executive Director of the National Advisory Council on Indian Education. As specifically requested by the Senate Select Committee on Indian Affairs, the Council will present testimony today regarding a variety of topics concerning Indian education.

At this time it is an honor to introduce to you two members of the Council who will present testimony. I would like to introduce Mr. Francis McKinley, a member of the Council, and Mr. John Rouillard, the 1st Vice Chairperson of the Council and the Chairman of the Legislative, Rules and Regulations Committee.

Mr. Chairman and members of the Senate Select Committee on Indian Affairs, my name is Francis McKinley, a member of the National Advisory Council on Indian Education. Mr. John Rouillard, another member of the Council, is present and he will also make a statement. Mr. Rouillard and I have been designated by the National Advisory Council on Indian Education to present the Council's views upon several current critical American Indian and Alaskan Native education issues. Our presence here today is the fulfilling of one of the major responsibilities of the National Advisory Council on Indian Education and that is to advise and inform the Congress of the United States on Indian education. I thank you for the opportunity to present our views.

I am addressing my remarks specifically to four critical Indian education issues that concern all of us. They are: (1) the transfer of the Indian Education Act programs (Title IV, Public Law 92-318) from the Department of Education to the Department of the Interior; (2) Trust Responsibilities for Indian education; (3) Budget reduction for Indian education; and, (4) Reauthorization of the Indian Education Act.

I have been actively involved in American Indian affairs for some thirty-two years. Fourteen of those years were devoted to service with my tribe, the Northern Ute Indian Tribe, Fort Duchesne, Utah, in various administrative positions and serving for eight years as an elected member of the Tribal Council. During the past eighteen years, I have been a member of the faculties of the Arizona State University and the University of Wisconsin; a senior research associate for the Far West Laboratory for Education Research and Development; and, presently, I am the Executive Director of the National Indian Training and Research Center, a position I have held for the past twelve years.

I am preparing my remarks with a bit of history, not to reminisce or bore you with nostalgia, but to lay the groundwork for the recommendations made by the National Advisory Council on Indian Education.

In the early 1950's, I and many Indian leaders worked cooperatively with the Bureau of Indian Affairs in facilitating the entry of Indian and Native Alaskan students into the American public school system. Despite the outcries of many American Indians concerned about the closure of local Bureau of Indian Affairs day and boarding schools, national Indian leaders supported the policy generally for the following reasons: (1) change was imminent in Indian education policy because Indian children were not receiving full opportunities for education; (2) the Department of the Interior was not education oriented, lacked the manpower, resources and interest in education and the social concerns. Education ranked as a low priority item in the Bureau of Indian Affairs activities, a situation which has not changed today, despite large education budget allocations; (3) the need to involve the Indian communities and Indian parents in the education of their children through a local school system; and, (4) assurances by the Federal Government that continued financial support would be rendered through such programs as the Johnson-O'Malley Act. The transfer was made so that now about two-thirds of the American Indian and Native Alaskan children attend public schools, while one-third attend private, Indian controlled, Bureau of Indian Affairs, or parochial schools.

The point I want to make in the recitation of the major shift in the Federal Government responsibility for Indian education some thirty years ago, is that it was clearly recognized that the Department of the Interior and the Bureau of Indian Affairs were not the entities upon whom Indian parents could entrust the responsibility for providing their children with quality education.

As a member of the Governor's Interstate Indian Council, representing the Governor of Utah, I worked actively to support the transfer of the Indian Health Service from the Bureau of Indian Affairs to the U.S. Public Health Service. This was accomplished in 1954. One of the principal arguments against the transfer was that it would alter and erode the historic, special relationship between the Federal Government and the American Indians. The proponents for the transfer argued that the Department of the Interior and the Bureau of Indian Affairs were not the special depositories for trust responsibility. It was the entire Federal Government and its infrastructure who assumed the trust responsibilities for American Indians. The transfer of the Indian Health Service to the U.S. Public Health Service would not weaken the trust responsibilities, but strengthen them.

The transfers of some of the Bureau of Indian Affairs education responsibilities to the public schools and the Indian Health Service to the U.S. Public Health Service were used by some people to bolster support for the so-called termination policies of the 1950's which were aimed at relieving any special Federal responsibilities for American Indians. The Indian support for changes, I want to emphasize, were not for abrogating treaties and agreements between the American Indians and the United States Government. The changes were supported to spread the Federal trust responsibility to other branches of the Government, and access specialized services, obtain new insights, gain greater public support, and thereby improve service delivery. In reciting the Indian Health Service transfer, I am pointing out that a major break in the traditional Indian policy occurred because the merits of such a change were recognized by the national administration and the Congress of the United States. Moreover, the enlarging of the trust responsibilities throughout the Federal Government was accepted and recognized.

Further expansion of the special Federal services to American Indians and Alaskan Natives occurred in the 1960's. The War on Poverty Programs and the establishment of the U.S. Office of Economic Opportunity to administer them caused another change in the traditional Indian relationship. The planning for the War on Poverty Programs began under the Kennedy Administration. A special Indian Task Force on Poverty was created in 1963 and I served as its Chairman. Against much opposition from some Indian leaders and the Bureau of Indian Affairs, the Task Force on Indian Poverty recommended to the President and the Congress of the United States that a special Indian desk be established in the U.S. Office of Economic Opportunity to administer Indian programs. Familiar arguments were raised by some persons about eroding the special Federal-Indian relationship. Advocates for breaking the reliance upon the Department of the Interior for Indian programs cited: (1) the instability and vacillating policies of the Bureau of Indian Affairs which was going through the throes of reorganization, an activity that is still being vigorously pursued today; (2) the rigidity and tradition-bound Bureau of Indian Affairs personnel who were unlikely to deviate from their past paternalistic roles and who would resist the dynamic, activist changing and liberal philosophy inherent in the War on Poverty Programs; (3) the urgent need to provide Federal Government services to many Indian groups, i.e. urban Indians, non-Federally recognized Indian tribes, state recognized Indian groups and other isolated Indian communities who had been systematically excluded from exercising their full citizenship rights and who did not meet the Bureau of Indian Affairs criteria for services; and, (4) the need to have the Federal Government reinforce its trust responsibilities by involving its multi-farious departments and agencies. The success of this change in traditional Indian-Federal Government relationships is demonstrated by the subsequent establishment of Indian desks in the Departments of Commerce, Labor, Justice, Health, Education and Welfare (Health and Human Services) and other agencies.

Stimulated in part by the Community Action Program of the U.S. Office of Economic Opportunity, which stressed the participation and involvement of the poor, many American Indians began to examine their current economic and social situations in the late 1960's, including the status of education for American Indians and Alaskan Natives. It was disturbing to discover that American Indians and Native Alaskans had not made much significant education progress from the very poor education situation found by Lewis Meriam (1928) in his survey fifty years before. Dr. Robert Havinghurst, of the University of Chicago, conducted a national Indian education study and his published report (1968) confirmed what Indian educators and practitioners already knew from countless studies and surveys of Indian education. The Havinghurst study indicated that: (1) Indians were not having a successful education experience, with excessive dropouts, poor attendance and low achievement when compared to their non-Indian peers; (2) Indians had no control over their educational programs; (3) there was no accounting to Indians regarding the Federal funds expended by the Federal Government for Indian education; and, (4) there was a need for basic adult education for Indians. A special Senate Subcommittee on Indian Education, chaired by the late Senator Robert Kennedy, initiated a study that resulted in a 1969 Subcommittee Report, "Indian Education: A National Tragedy--A National Challenge." This report, plus other similar reports including a report I co-authored entitled, "Who Should Control Indian Education?", led to the enactment of the Indian Education Act. This Act provides legislative authority for programs designed to meet the special educational and cultural related needs of American Indians. The two most important features of the Indian Education Act were to provide direct parental involvement and to provide expanded services to American Indians who had not received special Government services prior to this time. These groups include the urban Indians, non-Federally recognized tribes, State recognized tribes, terminated Indians and others.

For over twenty years, beginning in 1951, up to the enactment of the Indian Education Act in 1972, the general theme of Indian education planning and development, as I have stated, was to move the education responsibility from the exclusive domain of the Bureau of Indian Affairs out into the larger Federal establishment where additional, varied and specialized resources could be brought to assist in fulfilling the Federal Government's recognized responsibility for Indian education. The Administration and the Congress, through legislative actions and administrative authorities, supported the Indian recommendations for which we were always grateful. Now we are being asked to reverse the policies, developed over thirty years, completely around and transfer the Indian Education Act programs back to the Department of the Interior without consultation with the Indian people, ignoring the recommendations of many Indian tribes and national Indian organizations, and with no adequate justification or rationale. Added to this confusing situation is the anomalous statements coming from the Department of the Interior spokesmen who are questioning whether Indian education is a Federal responsibility.

In view of the thirty-year history of Indian education and its prevailing trends and patterns, the National Advisory Council on Indian Education recommends that if the U.S. Department of Education is dismantled within the next year, that all Indian Education Programs (Title IV, Parts A, B, C and D) along with all other programs directly benefiting Indian children and adults (i.e. Impact Aid, 1% Vocational Education Set-Aside, etc.) within the U.S. Department of Education be transferred intact to an independent agency or foundation other than the U.S. Department of the Interior. The Council's preference, however, would be to retain the Department of Education and keep the Indian Education Programs intact within that Department (SEE: Appendix A).

In the past, and particularly within the last twenty years, the Federal Government, the past administrations and the Congress have consistently recognized the trust responsibilities for Indians, including education, by granting needed authorities, funds and other resources. Federal trust responsibilities for Indians should not bear constant repeating. Cognizant that there are those who do not accept the precedents and the groundwork that have been made and who would impulsively abrogate the Federal-Indian relationship without further notice, the National Advisory Council on Indian Education recognizes that Indian education is a Federal trust responsibility and that the primary source of education of Indian children and adults rests with the Federal Government. Further, the National Advisory Council on Indian Education recommends to the

U.S. Congress that this Federal trust responsibility for Indian education be fully implemented, maintained and upheld (SEE: Appendix B).

Mr. Vine DeLoria, a lawyer, author and a commentator on Indian affairs, has observed that support for Indian programs are never adequate; that just enough money is made available to Indians to get them excited, filled with hope and to get them embarking upon some endeavor to make them self-sufficient when the supporting funds pipeline is closed and then accusations are made that the Indians have failed again. The across the board budget reductions in the so-called austerity program of the present Administration is following the pattern of Indian program funding. After some ten years of providing wide latitude to local education agencies enabling Indian students, Indian parent committees, tribes, Native organizations and Indian controlled schools in determining the needs of Indian students and in developing materials, approaches and curricula, the Indian Education Act Programs are now just beginning to achieve significant, positive successes. Budget reductions will eclipse whatever progress that is now being made by the Indian Education Act Programs.

The Council would like to call to your attention to the fact that the funding level appropriated by the Congress of the United States in Fiscal Year 1982 for the Indian Education Act Programs was inadequate to meet the needs of Indian children and adults in the United States, since only approximately 80% of the local educational agencies participated in the programs. Continued improvement requires increased funding for all parts of Title IV; however, we appreciate the need for fiscal constraints in the Federal Government. The Council recommends that the funding level appropriated by the Congress of the United States for Fiscal Year 1983 remain stable at the Fiscal Year 1982 level of funding. The National Advisory Council on Indian Education supports a Fiscal Year 1983 budget request on behalf of Public Law 92-318, Parts A, B, C and D, in the amount of $77,852,000.

The Council recognizes the need to increase the level of funding for Parts B and C of the Indian Education Act which funds planning, pilot and demonstration projects and adult education.

We also recommend that the National Advisory Council on Indian Education be provided $202,000 in fiscal year 1983.

We believe that the Indian Education Act is the most significant Indian legislation passed by the Congress. The Act gives schools educating Indian children wide leeway in developing innovative and creative approaches for overcoming what has been repeatedly referred to as a national tragedy - the lack of quality education for Indian children. The Act also provides Indian people an opportunity to plan and develop pilot and demonstration programs for children and adults and also provides for adult education - education for adults who never had the opportunity for education.

The Congress has given hope to American Indians and Native Alaskans to help themselves toward the goal of self-sufficiency through direct involvement in the educational process. We sincerely hope that the Congress continues to recognize the education and cultural needs of Indian children and adults and that steps are being taken in the right direction to see that Indian children and adults are provided greater opportunities for quality education.

My name is John Rouillard. I am a member of the Flandreau Santee Sioux Tribe of Flandreau, South Dakota. I represent the National Advisory Council on Indian Education (NACIE) as First Vice-Chairperson and as Chair of the Legislative, Rules and Regulations Committee. I am an associate professor of American Indian Studies at San Diego State University in San Diego, California.

At the request of the Council, I appear before you this morning to present testimony on behalf of the Indian people we represent regarding some key concerns about the future of Indian education programs.

In my responsibility as chair of the Legislative, Rules and Regulations Committee, I have heard and read testimony from witnesses throughout the Nation regarding the importance of the Title IV Indian Education Act. Over the past two years our Committee has conducted hearings at seven locations and, presently, we are developing an analysis of the data collected at those hearings. In order to prepare a summary which we expect to submit to Congress, we will meet next month in Tempe, Arizona. The present legislation is due to expire in 1984, and the Council is supporting the Indian people who have expressed a great need for the reauthorization of the Title IV Indian Education Act legislation.

The Legislative Committee has collected a separate volume of testimony from each of the field hearings that were held and, in addition, we have a separate bound volume of written testimony sent directly to the Council Office in Washington. The information provided to the Council was made possible through notices in the Federal Register, NACIE and Resource Centers' newsletters and by word of mouth, that the Council was interested in hearing any citizens express their opinions about the strengths or weaknesses of the Indian Education Act.

The Committee is pleased to report that the overwhelming evidence of the written and spoken testimony has been very supportive of the Indian Education Act in every respect. The criticisms that were heard by the Committee mainly reflected on aspects of the law which weakened or inhibited an active participation by Indian parents and advisory committees in the determination of program policy under the Indian Education Act.

The Legislative, Rules and Regulations Committee has determined through this testimony that it will be possible to improve the implementation of the law and provide a smoother operation between the Department of Education and the programs in the schools. We intend to respond to Indian communities' concerns by looking at the possibility of recommending regulation changes to the Secretary.

The National Advisory Council on Indian Education has provided this Senate Committee with six bound volumes of testimony received at six field hearings held by the Legislative, Rules and Regulations Committee, and would like to present to you at this time a seventh volume of testimony received at our last public hearing held in Cambridge, Massachusetts, on April 19, 1982. This concludes our formal hearing schedule relative to the Reauthorization of the Indian Education Act, Public Law 92-318, although the Council will continue to accept written testimony by mail throughout the coming year and will transmit such testimony received directly to the Congress of the United States. With regard to this important testimony, the Council would like to recommend to the Congress of the United States that the documents and data prepared by the National Advisory Council on Indian Education through field hearings be utilized in preparation for the Reauthorization of Indian Education legislation (SEE: Appendix C).

In meeting this responsibility we have prepared approximately twenty recommended regulation changes for Part A which we will discuss with the Director of the Indian Education Program at our next Committee meeting in Tempe, Arizona. We are not in a position to discuss changes at this time but we feel that we are within our legislated mandate in proposing regulation changes that will help to overcome some of the problem areas that have surfaced as a result of the hearings.

I feel it is important for the Senate Select Committee to be reminded of the special responsibility that the National Advisory Council on Indian Education has in its relation to the operation of all Indian education programs. We have an obligation to Indian people to protect the integrity of programs whether they be Title IV or service programs to Indian education from other Federal sources, including the Department of the Interior. This Council is the only Indian citizens' council with a legislated mandate to oversee Indian education and it is the only council in the history of the Nation that makes provision for Nationwide representation of Indian people from many diverse tribes. This Council takes its mandate very seriously and has been energetically involved in advising the Secretary, the President and the Congress about our concerns for the future of Indian education. Because of this it is important to express our position to the Senate Select Committee regarding the proposed transfer of the Indian Education Program to the Bureau of Indian Affairs.

The National Advisory Council on Indian Education has expressed formal opposition to the proposed transfer of the Indian Education Programs to the Department of the Interior.

As you know, this proposed transfer is a companion plan to the Administration's proposal to dismantle the Department of Education and to relocate units within the Department to other areas of the Federal Government. Before this plan was formalized in the President's Budget, there had been much discussion about the proposal throughout the Indian communities. The Council has heard an overwhelming amount of testimony from the Indian community at large, and from Indian educators and political leaders who are in opposition to this plan.

There are many reasons given by witnesses in opposition to the transfer and the Council is directed by this expression of the Indian public. It is clear to me that this expression of concern coupled with the evidence of satisfaction that educational gains are happening, reinforces the judgement of the original sponsor of the Title IV legislation.

I would, at this point, like to place in the record a consideration that the Indian Education Act respond to an important need of the Indian community that has not been met by the Nation's school systems nor the Federal school system for Indians. A major element of educational need is a result of the failure of the Nation's public schools to acknowledge the cultural elements and the historical contribution that is part of the evidence of the durability of Indian people in this Nation. The cultural strength and contribution of tribal societies has never been incorporated as a facet of the cultural studies which contribute to the fabric of the humanities and social sciences as they are taught in our American schools. As a result, the original language of Title IV acknowledged the need for improving the educational opportunities of Indian children with language that acknowledged the unique cultural differences. The public school system--and the Bureau school systems--have long been totally influenced by the "melting pot" concept of social evolution through the educational process. Time and again through various reports and studies it has been demonstrated that the failure in Indian education can often be directly attributed to the problem created by this pervasive educational philosophy which is focused around the development of a mono-cultural society. An interesting side effect is that the Indian Bureau schools, subscribing as they have for so many generations to the assimilationists' philosophy, now seem to be in greater opposition to the pluralistic concept which has grown out of the Title IV programs for Indians. Today, we find the Bureau of Indian Affairs (BIA) administration standing in opposition to the concept of "education as a trust responsibility," whereas, NACIE has unanimously stood for the resolution which proclaims our support of the concept. The plan to hand the Indian Education Program over to the BIA becomes more astounding with each new announcement regarding the Bureau's intention to divest itself of educational responsibility.

The Indian Bureau's educational record has never been highly regarded, and only during the recent two administrations has there been any significant change in the involvement of the Bureau's administration in aggressive work toward handing educational policy and decision making power over to Indian parental boards and councils. Up until the 1970's, the history and philosophy of Indian education continued to be framed on assimilationists' goals that have guided policy since the system was established in the 1880's.

My position, as I support the objection to the transfer, reflects on two points. One, is that we, the National Council, reflect what we feel to be national Indian support for a new philosophy in Indian education which requires acknowledgement and support of tribal cultures, past, present and future. This should be made in important ways in our schools, whether they be through ancillary programs in the public schools or incorporated as part of the major curriculum in public or Indian schools. The example of the success of this type of program at the postsecondary level has given us much hope for the future success in the elementary and secondary school levels.

The Indian Bureau in its present determination to get out of the education business seems to be reflecting an opposite philosophy to that espoused by the Indian public at large. It would seem that placing innovative and experimental programs like those now in place throughout the Nation as a result of Title IV within the Bureau of Indian Affairs would be tantamount to setting the fox to guarding the chickens. The BIA fails to acknowledge that education is a trust responsibility and since their concern does not include education, we feel that for Congress to support this proposal would be acknowledgement of their concept of the limits of trust responsibility. By and large, Indian educators and leaders throughout the country do not agree with this position and would consider it a violation of the rights of present and future generations of Indian children.

We need funding for all educational programs, including the Indian Community Colleges and educational programs provided by the Indian Health Services in order to train more Indian health professionals. One critical Indian education program is the Impact Aid Program, authorized by Public Law 81-874. The National Advisory Council on Indian Education strongly urges the Congress and the Administration to provide full and adequate funding levels no less than that contained in the Fiscal Year 1981 budget for all Impact Aid purposes (SEE: Appendix D). Finally, the Council is concerned that the Indian education programs operated through the Bureau of Indian Affairs at the U.S. Department of the Interior, as well as other programs for and affecting Indians were facing large budget reductions in Fiscal Year 1981, and has recommended in the Eighth Annual Report to the Congress of the United States, entitled, Indian Education: America's Unpaid Debt, that the Congress of the United States review any proposed budget reductions for Indian programs in order that the Federal Indian trust responsibilities are safeguarded and maintained (SEE: Appendix E).

The recent history of Indian education provides some outstanding examples of success stories--Title IV is just one of these. The programs to encourage tribal control of Indian colleges has offered a bright hope for a number of Indian people in remote tribal communities, but the struggle of those colleges to develop facilities and academic programs under very adverse circumstances and extremely limited funding is well known. The success of a significant number of Indian students in educational professional development programs both at the Indian colleges and in public institutions is beginning to provide a significant number of academic leaders to staff the colleges and some of the Indian-controlled schools throughout the country. However, when these programs begin to reach a certain level of stability we have been faced with various disruptions as a result of changes in administration both at the highest level of government and within the program levels of the bureaucracy. The fact that Indian programs have been able to succeed in the face of these amazing changes is another tribute to the tenacity of Indian people to exercise their will and good judgement when they have the opportunity to guide the destiny of the lives of the young people.

In conclusion, it seems appropriate to ask why the present Administration seems so intent on pursuing the transfer of the Indian Education Program from the Department of Education to the Department of the Interior. It is our understanding that this plan was to be effected upon disestablishment of the Department of Education. A larger question may be: Is the Department of Education going to maintain its status as a Department of the Government and, if so, are Indians being moved out simply because the philosophy of Indian education is seen as incompatible with the future philosophy of the Department of Education?

Thank you for allowing me to submit this testimony to this Senate Select Committee on Indian Affairs.

APPENDIX A

Eighth Annual Report - Final Recommendation No. 1

We recommend to the Congress of the United States and the Secretary of Education that if the Department of Education is dismantled ... that all Indian education programs (Title IV, Parts A, B, C & D) along with all other programs directly benefiting Indian children and adults (i.e. Impact Aid, The 1% Indian Vocational Education Set-Aside and others) within the Department of Education be transferred intact to an independent agency or foundation other than the Department of the Interior.

APPENDIX B

Eighth Annual Report - Final Recommendation No. 2

We recommend to the Congress of the United States that the Federal trust responsibility for Indian education, which rests with the Federal Government, be fully implemented, maintained and upheld.

APPENDIX C

Eighth Annual Report - Final Recommendation No. 4

The National Advisory Council on Indian Education, with positive anticipation of Reauthorization of Title IV, recommends to the Congress of the United States that the documents and data prepared by the National Advisory Council on Indian Education through field hearings be utilized in preparation for the Reauthorization of Indian education legislation.

APPENDIX D

MOTION No. 4 Approved by the National Advisory Council on Indian Education on April 18, 1982, at Cambridge, Massachusetts

I MOVE that the National Advisory Council on Indian Education adopt the following resolution regarding the Impact Aid affecting public education on or near Indian reservations:

WHEREAS: The National Advisory Council on Indian Education is mandated by federal law contained at P.L. 92-318, Section 442(b) to advise the Secretary of the Department of Education with respect to the administration of any program in which Indian children or adults participate from which they can benefit, including the Impact Aid laws contained at P.L. 81-874, as amended; and,

WHEREAS: Impact Aid funding to public schools in lieu of local property taxes represents the federal government's single largest expenditure for the delivery of educational services to Indian people; and, therefore, represents a manifestation of the federal trust relationship between the federal government and the Indian tribes; and,

WHEREAS: Recent and planned substantial cutbacks in the funding level for these purposes have severely affected the ability of some public school districts to continue to function; and,

WHEREAS: Title XI of P.L. 95-561 amended P.L. 81-874 so as to require public school boards to actively solicit meaningful Indian parental and tribal input into all facets of the school program funded by Impact Aid monies. Title XI further provided to Indian parents and tribal authorities a formal administrative complaint mechanism when they feel that the school district is not in compliance with the Federal requirements; and,

WHEREAS: The National Advisory Council on Indian Education acknowledges that the formal administrative complaint mechanism has proven to be a positive influence in the education of Indian students in public schools.

NOW THEREFORE BE IT RESOLVED:

That the National Advisory Council on Indian Education strongly urges the Congress and the Administration to provide full and adequate funding levels no less than that contained in the FY '81 budget for all Impact Aid purposes; and,

BE IT FURTHER RESOLVED:

That the formal administrative complaint process in the Impact Aid laws continue to be properly handled by and remain under the control of the Department of Education.

APPENDIX E

Eighth Annual Report - Final Recommendation No. 3

We recommend to the Congress of the United States that the Congress review any proposed budget reductions for Indian programs in order that the Federal Indian trust responsibilities are safeguarded and maintained.

May 1982

THE NATIONAL ADVISORY COUNCIL ON INDIAN EDUCATION

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NATIONAL ADVISORY COUNCIL ON INDIAN EDUCATION

PUBLIC HEARING ON THE REAUTHORIZATION OF THE INDIAN EDUCATION ACT,

TITLE IV OF PUBLIC LAW 92-318

Hearing Number 7

Sheraton-Commander Hotel
16 Garden Street
Harvard Square
Cambridge, Massachusetts
April 19, 1982

LEGISLATIVE, RULES AND REGULATIONS COMMITTEE

Professor John Rouillard, Chairman, presiding
Ms. Maxine Edmo, Member
Ms. Ruby Ludwig, Member
Dr. Robert Swan, Member
Dr. Noah Woods, Member

(The following prepared testimony was presented to the National Advisory Council on Indian Education on the Reauthorization of P.L. 92-318, the Indian Education Act of 1972, on April 19, 1982, Cambridge, Massachusetts and was submitted to the committee hearing record by Mr. Francis McKinley, member of the Council.)

#1
4/19/82

Boston Indian Council, Inc.
105 SOUTH HUNTINGTON AVENUE
JAMAICA PLAIN, BOSTON, MASS. 02130
Telephone 232-0343-44

April 19, 1982

Project ADVANCE Office

TESTIMONY

BEFORE: The National Advisory Council on Indian Education (NACIE) at the Sheraton-Commander Hotel in Cambridge, Massachusetts, on April 19, 1982

BY: Yvonne J. Wynde, Director, Project ADVANCE (Title IV-C Planning and Pilot Demonstration Program, 1981-1984)

CONCERNING: Reauthorization of Title IV, P.L. 92-318: Indian Education Act of 1972

Council Members, Colleagues, Ladies and Gentlemen:

My name is Yvonne Wynde. I feel honored by this opportunity to testify before you today as one of the many who are calling for intertribal unity on issues affecting Indian Education.

My home is in South Dakota, where I am enrolled in the Sisseton-Wahpeton Tribe of the Dakota Nation. For the last year and a half, however, I have been living in Boston, where I am presently serving as Project Director of a Title IV-C Planning and Pilot Demonstration Program titled "Project ADVANCE."

Project ADVANCE is a three-year curriculum development effort aimed at improving the educational and employment opportunities of Indian adults nationwide. Our purpose is twofold: first, to bring Indian Adult Education programs into closer harmony with traditional American Indian values, methods of teaching and learning; and second, to assist programs in helping Indian adults to get ahead in today's multi-cultural society.

By the Spring of 1984, Project ADVANCE hopes to publish a new curriculum guide that can be used at Indian Adult Education centers in all settings: reservation, off-reservation rural, and urban. Of necessity, therefore, our project is national in scope.

Boston Indian Council: Testimony of Yvonne J. Wynde (4-19-82)

Most of our efforts this first year have been devoted to nationwide outreach and cross-cultural research. To date, we have been successful in gaining the participation of 39 Indian Adult Education sites in 20 states. Of the 39 sites, 20 have involved personal visitations by me and my staff. Through first-hand observations and interviews, we have learned a great deal about the needs and aspirations of our people in all parts of the country.

What has impressed me most is the fact that we have much more in common than I had previously realized. For example, general agreement does exist on traditional ~~Native~~ Indian American values. When asked which Indian values are most important to them, the great majority of Indian adults have responded with variations on the same themes: their heritage, high moral-ethical character, and achievement that is community-oriented but also aimed at the realization of their human potentialities.

We have also discovered that Indian educators throughout the nation have many interests and concerns in common. They are eager to know, for example, what Indian Adult Education methods and materials have proved to be successful at other centers; and they are willing to apply these state-of-the art tools and techniques in better preparing their students for educational and employment success.

This is not to say that some historical differences among geographical and cultural groups have diminished since the Indian Education Act of 1972. To the contrary, we at the Boston Indian Council, where Project ADVANCE is based, have been challenged on our credentials. A couple of the larger, federally recognized tribes on reservations are wondering, for example, how such ambitious goals can possibly be undertaken by an Eastern, inter-tribal, urban Indian center that serves a wide variety of Indian people.

Boston Indian Council: Testimony of Yvonne J. Wynde (4-19-82)

Our response has been--and is--that we believe we are, because of these characteristics, best qualified to serve the needs and interests of all. Indeed, our cross-cultural staff and clientele represent the ideal toward which we ought to be striving: a unified Indian community, working together on common goals and objectives.

Any action that divides us against ourselves is, therefore, a threat to us all. So, it would be a serious setback for Indian Education programs, in our judgment, if programs presently administered through the U.S.Department of Education were transferred to the Department of the Interior, which deals only with federally recognized tribes.

Above all else, we should be doing everything we can to unite around the great core of common ideals. Then our voices will be heard, in unison, as we call for a stop to further budget cuts; for the full utilization of monies already appropriated for Indian Education; for the continuation of Indian legislation, particularly, the Indian Education Act, 1972, for Indian people as a whole; and for the increased appropriation of dollars for Indian Education programs of all kinds throughout the United States.

Thank you for your kind attention.

#2
4/19/82

The Commonwealth of Massachusetts
Commission on Indian Affairs
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EDWARD J. KING
Governor
BYRON J. MATTHEWS
Secretary
JOHN A. PETERS
Executive Director

April 19, 1982

TESTIMONY

REAUTHORIZATION OF TITLE IV, PL 92-318

My name is John Peters, Executive Director of the Massachusetts Commission on Indian Affairs. I thnak you for the opportunity to address this hearing on the Reauthorization of Title IV, PL 92-318 as well as issues relating to Title IV.

The tribes in Massachusetts like most nations or tribes on the east coast are not federally recognized nor represented by the Bureau of Indian Affairs. Only in the past few years has the government of the United States extended any form of its' trust responsibility to the non-federally recognized Indians of the east.

Title IV has been a great asset in this state. The effects has been rewarding. Our students have a better understanding of ones self in the areas of cultural, spiritual, social, and academic advancement. This has come from parent involvement, peer structure, and a true history of the Indian and his contribution to the world. We have seen the attendance of Indian students increase in public schools, in their involvement with outside activities, as well as with tribal and inter-tribal organizations. I will give you a few historical facts on education in this state. One must understand that the indigenous tribes of this state only make up about 20% of the Indian population which ranges from 13,000 to 15,000. members from over 46 different tribal nations have been identified residing in Massachusetts. Most of them lack in a high degree of education. It must appear strange to most people that Massachusetts, known as the education center of the United States, has very few Indian graduates, and Cambridge, the location you chose to hold this hearing, is adjacent to Harvard College which was first built from a trust fund to educate Indians. To date, only two Massachusetts Indians have graduated from this college. A study conducted last year on education of Indians state-wide, revealed that 84% of Indian students drop out of public schools before the 12th grade. Also, in all colleges, universities, and technical schools, we could identify only 236 Indian students and 60% of them came from tribes out of the state. We attribute these percentages of low academic achievements to a suttle form of racism, stereo-typing, lack of peer persons in education & government, racist history, and cultural genocide that accompanies forced assimulation. Just an example: in the year 1870, the Massachusetts Legislature divided $2,500 from federal surplus funds to six Wampanoag Tribes for the education of Indians. The last three lines of this piece of legislation (17, 18, & 19) state: "Said towns shall severally apply the money so received at their discretion for the benefit of that portion of their inhabitants formerly called Indians." Incidentally, these six tribes were the first Indian reservations established many years before United States was formed.

As director of the Commission on Indian Affairs and an advocate for all Indians residing in this state, I would like to convey to your Committee our wishes and concerns regarding Title IV. They are as follow:

1. That the Congress re-instate a budget equal to fiscal year 1982 in the amount of $77,852,000
2. To continue existing Indian schools on and off reservations that participate in Title IV, Parts A,B,C, & D
3. To retain language of Indian identification as it now exists in the Indian Education Act, P.L. 93-318
4. That the U.S. Dept. of Education not transfer Title IV to the Bureau of Indian Affairs
5. We pray that our voice is heard through you to the government of the United States in this matter

Respectfully submitted,

PREPARED TESTIMONY OF MR. JOHN TIGER, STUDENT, HARVARD GRADUATE SCHOOL OF EDUCATION, CAMBRIDGE, MASS.

I am John P. Tiger, a full-blood member of the Yuchi and Delaware tribes of Oklahoma. I wish to thank the members of the National Advisory Council on Indian Education for allowing me this opportunity to speak on an issue which has had, is having, and will continue to have a significant impact on the American Indians of this country.

I am a student in the Harvard Graduate School of Education and I will receive the master's degree in June. Further, I was recently accepted into the doctoral program in education at Harvard, and I plan on returning to Cambridge next fall to continue my studies. Obviously I am concerned about the Title IV program, particularly the Felowship program.

I should also like to add for the record that I am a parent of a teen-aged son and daughter who attend high school in Pawhuska, Oklahoma. They are two more reasons I am concerned about the future of Title IV in this country.

Nearly ten years ago I first went to Washington, D.C. to work in Indian affairs at the national level. My arrival in Washington coincided with the first year of the implementation of Title IV in 1972. As I recall those early years of the program, the problem was one of convincing Congress that the appropriation level needed to be higher. Now the problem seems to be that of convincing the President that the appropriation level should not be lowered.

In 1928, Lewis Meriam stated in his report, "The most fundamental need in Indian education is a change in the point of view." After 40 years, this change in the point of view came through Title IV, but if the Reagan administration has its way with the proposed appropriation for Title IV funds, then much of what has been gained will be hopelessly lost.

I understand that the administration wants to reduce the Title IV funds from $77 million to $51 million which represents about a 33 per cent reduction. This means, that all other things being equal, the number of new graduate fellowships slated to be awarded will be reduced from 80 to 53. This reduction in funds for the fellowships monies together with the upward spiral in university tuitions along with the other higher education cuts such as loans and work study funds creates insurmountable odds for the Indian graduate student next year.

Since I mentioned proposed cuts in higher education funds which are outside of Title IV, then let me take this opportunity to mention other reductions in proposed budgets which will have an effect on Indian education. I understand that P.L. 874, the Impact Aid Program is also slated for a major reduction--approximately 25 per cent or $34 million. Is there no end to this madness? I can hardly believe it when government spokesmen tell us the cuts are necessary to curb inflation when the next thing they do is increase the size of the defense department budget. And who can make any sense out of the situation where an employee in the Office of Indian Education was reduced from her job as a GS-13 to a clerical job as a GS-3, but still gets paid at the GS-13 level?

And as long as I am submitting this for the record, I might as well include something about the general overall reduction and reorganization which the Bureau of Indian Affairs is proceeding with. We can only hope that someone in Congress will have enough good sense to stop the BIA from reorganizing itself clear out of its trust responsibility role for American Indian tribes. This latest action in reorganization of the BIA and the education division has largely been accomplished without the consultation and advice from Indian tribes, I should add.

And this brings me to the question of reauthorization of Title IV past 1984. Of course I want to go on record insupport of reauthorization of Title IV. But I believe there are a few items I would like to recommend for consideration with regard to the rules and regulations. As a parent, I believe in Indian parental control over the education of Indian children. I think that the regulations need to be tightened up with regard to membership on the Parent Committee. Too often Indian parents lose control when teachers and students can be seated on the committee and crucial votes and Indian input are lost on countless occasions.

I would also be in favor of recipients of Indian fellowships obligating themselves to serve in the various fields of Indian affairs for a certain period of time after their graduation. I think that the temptation may be overwhelming in some cases where Indian people lose promising graduates to high-salaried jobs, and I think an agreement to return to Indian affairs is necessary.

Once again, let me thank the NACIE for allowing me the time to present my views on these issues at this critical time in Indian education.

#4
4/19/82

Boston Indian Council, Inc.
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TESTIMONY SUBMITTED BY STEPHEN REUYS

TO THE NATIONAL ADVISORY COUNCIL ON INDIAN EDUCATION

PUBLIC HEARING ON ANY ISSUE RELATED TO TITLE IV

CAMBRIDGE, MASSACHUSETTS APRIL 19, 1982

My name is Stephen Reuys. I have been on the staff of the Title IV-C Adult Education Program at the Boston Indian Council for three and a half years. I would like to talk briefly about the importance of the Title IV Indian Education Programs and the dangers they currently face in Washington.

First, their importance. In our Adult Education Program, we've had our share of success stories. People have gotten their first jobs or they've gotten better jobs than they had before, some within the community, some outside. People have gone on to various training programs and to college. People have learned new things, developed new skills, and enhanced their sense of themselves, as individuals and as Indian people.

Maintaining these sorts of opportunities is becoming even more important with the development of two particular trends. The first concerns the decline in allocations for education across the country and especially in Massachusetts. One effect of this is almost certain to be that schools will become even less likely on their own to make the changes needed for truly multicultural education, and the problem this creates for Indian people in the schools supports the need for additional settings where education can be done in a way that is respectful of Indian people and their heritage. The second point concerns the declining strength of the economy and the ascending rates of unemployment. Educational programs that improve the ability of Indian people to obtain jobs will be more important than ever during the next few years.

I have thus far referred to the value of Indian Education Programs for individuals, yet there is also another aspect that should be mentioned--their value to the community as a whole. The most obvious benefit in this regard is that of individuals who use their newly-acquired skills and credentials for the betterment of their community. Secondly, these programs can help by increasing non-Indian awareness and understanding of the Indian community. One of the problems faced by Indian people, especially in the Northeast, is the general lack of knowledge and the prevalence of stereotypes concerning Indians held by the non-Indian public. Indian Education Programs, sometimes directly, sometimes indirectly, can help to make the public more aware that, for instance, an Indian community does exist in Boston and can help to further an accurate understanding on the part of that public as to the culture and history of the tribes represented here. This, too, benefits the Indian community. And thirdly, these programs help Indian people become more self-confident and more vocal, as individuals and as groups. Then, as the Indian community becomes more visible and more powerful, it also becomes more successful in getting what it needs from the larger society. Put another way, Indian Education Programs often work to promote in the community many of the qualities its members need to be effective in the struggle for their rights, for fair opportunities, and for greater control over their own future.

Now, at the present time, the Title IV Programs are facing two possible dangers. One danger comes in the form of sizeable proposed Fiscal Year 1983 budget cuts to the Indian Education Programs. The other danger is the possible transfer of these programs to the Bureau of Indian Affairs, if their current home, the Department of Education, is dismantled. Regarding the first danger, I feel that the federal government, by virtue of this country's history and its treaty obligations, has a special responsibility to Indian people, particularly in the area of education. Federal funding must be kept at a level that is adequate to meet this responsibility. And it is important to remember, in light of suggestions that the states assume this obligation, that it is a responsibility which the states have traditionally not accepted and would be extremely unlikely to take up at this time were federal funding to be cut. Therefore, federal funding for Indian Education Programs should be kept at least at its current level.

Now, regarding the second danger, when the Indian Education Programs were established, it was understood that education was a need felt by all Indian peoples, not just those with federal recognition. Since the Bureau of Indian Affairs deals only with federally-recognized tribes, these programs were thus not placed under the BIA, but rather under what was then the Department of Health, Education, and Welfare. Even if the current Department of Education is eliminated, it remains improper for for Indian Education Programs to be transferred to the BIA. To do so would very likely result in the loss of educational opportunity for thousands of Indians from non-federally recognized tribes who benefit greatly from the Title IV public school, youth, and adult education programs run for and by Indian people. In particular, Indian Education Programs in the Northeast would obviously be crippled, if not eliminated entirely, by such a move. I strongly recommend, should the Department of Education be disbanded, that these programs not be placed under the BIA, but rather located in whatever independent agency or foundation may be created in the wake of the present department.

In conclusion, I would just like to say that as a non-Indian I feel privileged to have been able to talk with you today, and I want to thank you all for your time and attention.

#5
4/19/82

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TESTIMONY SUBMITTED BY CAROL LANG
TO THE NATIONAL ADVISORY COUNCIL ON INDIAN EDUCATION
FEDERAL HEARINGS ON THE REAUTHORIZATION
OF THE INDIAN EDUCATION ACT OF 1972
CAMBRIDGE, MASSACHUSETTS APRIL 19, 1982

My name is Carol Lang. I am an Ojibway Indian and have lived here in the East all my life. I am here this morning to testify in support of the reauthorization of P.L. 92-318, Title IV, the Indian Education Act of 1972. If it weren't for Indian Education and what it has done for me, I probably would not be standing here. I'd be standing in the assembly line at the candy factory where I was ten years ago.

Today I have my Bachelor's Degree and Teaching Certificate, thanks to the support of Indian Education, something I never even dreamed of before. I grew up being the only Indian in my class, with thoughts of being different, but not in a positive way. I had no other Indians to relate to and no subjects relevant to my culture. It was in 1974 that I began working for a Title IV, Part B program at the Boston Indian Council. Here I saw how small children viewed themselves as Indians. One child's wish was to be a "real Indian"; another child said he would always root for John Wayne in the movies. These two examples showed clearly to me the need to educate our young culturally. Within a year our Part B program had reached many young children's lives. Their spirits were touched with a tast of Indian pride. They were all learning about how beautiful it is to be Indian. By the end of the year parents were telling us how their children were improving in school. It was after that first year that I saw the need to educate our own children and decided to go to college myself so I could learn the necessary skills to become a teacher. The Title IV, Part C program at BIC assisted me in reviewing basic skills for college. Most important was the support and encouragement they gave me throughout my college years, which I wouldn't have received from a non-Indian program.

My son, who is now 7 and in the second grade, has been helped by the Title IV, Part B program. He is having opportunities that I never had. The Indian Council has become one of his favorite places to be. If the Indian Education Act is not reauthorized, where will he get the support and education he's been getting from Title IV? The public school in the past has not been supportive of Indian education. In the fall I personally offered to come to my son's chool to help with a unit on Wampanoags, but they informed me that they had a curriculum developer and they didn't need my assistance. This is just one of the many examples of what type of education system we are dealing with here in the Northeast.

As an educator and as a parent, I ask you once again please to consider the reauthorization of Title IV, not just for the children that are here, but for the generations that are yet to come. If we don't help own own, who will?

#6
4/19/82

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Testimony for NACIE Hearing
Reauthorization of Title IV
April 19, 1982

Madame Chairperson, Ladies and Gentlemen of the NACIE Council. I am glad to be here today. My name, for the record, is Jacquelyn Dean. I am a Seneca from the Allegany Reservation in New York State.

I am here today to lend my support to what I feel is an important issue concerning all Native American people. This issue is the proposed loss of Title IV programs, as of September 30, 1984.

As a project director for the Wabanaki Curriculum Development Project at the Boston Indian Council, I see a definite need for Title IV programs. Without the Title IV Part A, my staff would have no link with the Boston Public School We would have to work twice as hard and take up valuable time rounding up the Native American students. Identification of Native students would be a phenomenal feat since the school system has scattered the 300 plus Native American students throughout the Boston Public schools. In many cases Native students do not know if there are any other Native American students in their same school.

I have seen the need for Native American counselors--academic and career--on the reservation and urban level as a past employee of a Title IV, Part B and C Project on my reservation and similarly, on a Title IV, Part B Project at the Boston Indian Council, respectively. High School seems to be the place where most Native students decide to drop out. In the Boston area, as well as the reservation, I have to say, thank God for Title IV because these programs have made sure that students have role models in and around the school. It gives the student culture within the school and allows him/her to identify with someone rather than feel alone in the fast pace of the big city or public school situation.

One other concern is the fact that Title IV does not make a distinction of whether you are Federally recognized or not. On the reservation it never seemed to be a problem but here, working at an urban center you are quickly made aware of the distinction. Many times there are needs to be met but the grant applications insist on Federally recognized tribes and urban Indian centers need not apply. Native Americans are Native Americans and most of us work hard to break the barriers that the Federal distinctions cause.

To conclude, I can only say this; I am proud to be a Native American, always have been and always will be. I feel that the children of the future should be allowed to feel that way too, and I am confident that with the Reauthorization of Title IV -- Parts A, B, and C, that a spark of hope will remain lit for a heritage of peoples who have adapted to all kinds of environments and, against many odds, have survived.

I thank you for listening.

Respectfully submitted by,

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SUBMITTED BY BARBARA GENTRY, EDUCATION COUNCIL, BOSTON INDIAN COUNCIL, INC.

Dr. Redbird, members of the National Advisory Council on Indian Education. On behalf of the Boston Indian Council, Inc., I wish to express my graditude for allowing me to testify on the Reauthorization of Title IV of Public Law 92-318, the Indian Education Act of 1972.

The Boston Indian Council, Inc. is a ten year old multi-human service organization which provides social, health, educational and job related services to the 4,000 Indian people residing in Boston. Nearly 80% of the population are from reservations and rural communitiies with most of the population being bi-lingual. Close ties are maintained with home reservations; and travel to and from is frequent. Major tribal affiliations include Passamaquoddy, Penobscot, Micmac and Maliseet.

Educationally, Indian people have not been prepared for the change from rural to city life: poverty, poor housing, unemployment, inadequate health care, etc. are all realities. Since 1977 the Boston Indian Council, Inc. has secured funding for programs Parts B and C and serves as a subcontractor for the Part A program. Programs have specifically included: A pre-school, dropout/prevention afterschool program for elementary and secondary students, a teen program, and an adult education program.

In 1972 the U.S. Congress made a strong committment to the development and progress of American Indian Education by passing the Indian Education Act. The need for new and specific activity in education for Indians was recognized in spite of the fact that for several years the federal government had been involved in educational programs designed to serve the economically disadvantaged. The reality was that programs developed under the auspices of the Economic Opportunity Act, the 1965 Elementary and Secondary Education Act, and other legislation were not reaching American Indian populations to a significant degree. This remains true today in Boston. There are several basic reasons for this. One of these was that state and local authorities who were responsible for developing programs assumed Indian people were being accomodated adequately by the Bureau of Indian Affairs. These agencies were unaware that the Bureau does not provide services for Urban and non-federally recognized tribes. Another reason why we did not receive services was due to the sheer lack of numbers as compared to other populations. Indian people often were left waiting while larger populations received all the services.

The Indian Education Act of 1972 has provided educational services to Indian people that no other federal program has achieved. For the first time in the history of the United States, Indian people have been able to make their own decisions concerning their education and that of their children. From colonial time until the passage of this legislation, the educational policy of the government has been to assimilate the Indian into dominanat society through the reinforcement of their culture and values with the total disregard and lack of respect of Native American culture and history. It must also be remembered that with the enactment of this legislation it was the first time that Urban and non-federally recognized tribes were eligible for Indian education services. Trully there is no duplication of services for Indian people when 50% live in Urban areas. The Boston Indian Council strongly urges that the Indian Education Act of 1972 be reauthorized.

At this time I would like to thank Dr. Helen Redbird for holding the NACIE meeting in Boston. You dnd the members of the Council have made the National Advisory Council on Indian Education more than a figure head but a working and vital part of the Title IV education programs for Indian people living in Boston.

Respectfully Submitted

Barbara Gentry

Barbara Gentry
Education Department
Boston Indian Council

A publication by the Comptroller General of the United States recent publication entitled, "Report ot the Congress: Federal Management Weaknesses Cry Out For Alternatives to Deliver Programs and Services to Indians to Improve Their Quality of Life," (october 31, 1978) pointed out the problem of committees which exercise oversight oftentime not having access to documentation. The nature of the Title IV program through self-determination and cultural diversity makes it a powerful and vital facilitor for Indian community development in Boston include the following:

1. Participants in the Council's Adult Education Program (approximately 100) can avail themselves of numerous supportive services including: dayday-care, job placement, alcoholism counseling, transportation to and from class, hogher education counseling, as well as referrals to community services and elderly program.

2. 90% of all the G.E.D. graduates (33) have pursued post-secondary education in either university or voacational settings.

3. Three teaching paraprofessionals in the Adult Education Program have moved from that status toward professional status via a career ladder which includes significant in-service training, components, increased job responsibilities, and relevant college coursework. One paraprofessional has obtained a Title IV, Part B, Indian Fellowship.

4. A long term objective of the Adult Education Program - to enable participants to get off welfare rolls - has been realized by 95% of those successfully completing the G.E.D.

5. A concomitant effect of the upward mobility experienced by Adult Education participants has been the decrease in demands asked of the Council's Community Service Unit.

6. Most importantly, individual "success stories" of program participants act as motivators and role models for other community members. Examples are the following:

Finance Manager (19,000), Teaching Paraprofessional (13,000), Full-time student, Homemaker, Secretary (10,000), Digital Assembly-line worker (10,000), Teacher Adie(9,000), Health Outreach Qorker (11,000), Part-time teacher/ Part-time student, Meter-reader for Boston Gas (11,000), Homemaker, Foreman MBTA (25,000), Full-time student, Self-employed craftsman, Digital Employee Computer Operator, Hairdresser, Dlerk-typist (10,500), Secretary (11,000), 2 Bookkeepers (11,000), Counselor (11,000), G.E. Employee, Alcoholism Counselor (12,000), Full-time student, Receptionist (9,000), Homemaker, Teacher-Aide (6,000) Full-time training for Heavy Equipment Operator

7. Compensatory tutoring program increased program participants by one letter grade with 20 students in end of the three year grant receiving academic achievement awards.

8. Adolescents experiencing difficulties adjusting to an urban environment have been provided individual counseling; 60% of same have remained in school.

9. Overall drop-out rate has decreased significantly.

10. Decrease in the fear and isolation felt by students through the heightening of self-esteem and self-awareness via relevant cultural activities.

11. The Indian youth and children who participated in the After School and Teen Program estavlished ties with their peers.

12. Before the program ended students were demanding extension of program days.

13. None of the teen participants were arrested for crimes or misdemeanors during the program.

14. Because of the holistic approach to education, i.e. providing educational experience for both children and parents alike in the community, parents are becoming more actively involved in their children's education as measured by: increase visits to the child's school, regular attendance at Parent Committee meetings.

15. Until the Title IV A program began with the Boston Public School System there were no Indian students graduating from high school. In 1980 there were 14.

#8
4/19/82

To: National Advisory Council On Indian Education

From : Claudette Bradley, Schaghticoke Indian
Doctorial Candidate
Harvard Graduate School Of Education

Re: Mathematics and Science Education for Indian Education

Date: April 19, 1982.

Members of NACIE Board I thank you for the opportunity to speak to you. My subject of concern is Mathematics and Science Education Within Indian Education. Today the United States government and the people it governs are facing many changes as a result of the present administration's economic policies. The policy that concerns me is the shift of government spending which is decreasing money spent on Education and Social Services and increasing money spent on defense and the impact of that shift on Indian Education.

What does this shift in government spending mean ? Besides decreasing the quality of Education available to Indian people, this shift in spending means a shift in the job market and kinds of job available to Indians. For all people the shift in the job market will mean a decrease of jobs in Education and Social Services and an increase in jobs available high technology corporation funded under Department of Defense contracts. These Corporations are seeking people in Mathematics related and Science careered requiring considerable skills in Mathematics.

What does this shift in governmert spending means to Indian people? This means Indian people in Education and Social Service careers will find funding sources diminishing a shrinking job market and many layoffs.

This shift in the government spending and the job market will place an increasing demand on Indian people gaining equity in Mathematics and "hard" Science education.

Indian Communities, reservations and organizations have experienced considerable growth in recent years. Today these same communities, reservations, and organizations are facing the harsh realities of get-cuts, and a deceleration in growth. The problem today is how to survive: decreasing dependency on government funding, keeping abreast with blooming high technology, continuing development of Indian communities, reservations and organizations. Indian Education must survive these some realities" decrease in government funding, blooming high technology, and continuing development of quality education for Indian people.

The most crucial factor in gaining equity in education, jobs and community development is competency in Mathematics.Raynna Green most elequently states the problem in the first paragraph of her article entitled, Math Avoidance: A Barrier to American Indian Science Education and Science Careers and I quote her: "Most land-based native Americans are in serious struggle for the retention and development of the land they own, and in that struggle lies a potential for economic development which can change health care and education patterns for the good. Thus, native engineers, geologists, hydrologists, resource planners, and managers, conservationists, foresters, agronomists, aqua-culture specialists, chemists, geneticists, animal husbandry specialists and botanists --- are all needed for resource development, management and planning on Indian lands. Additionally, Indian teachers and programs in these fields are needed to raise the general educational level of native people, as well as, to provide meaningful career options for all Indians -- rural, urban, land-based and not."(unquote) Further more Lucy Gells wrote Mathematics a Critical Filter : Problems and Solutions she discloses high school Mathematics is a critical filter for anyone entering the job market or seeking higher education. Students who have not taken Algebra and Geometry in high school are inelligible for admissions to some colleges upon graduation (Office of Provost, 1976). Students without a background in trignometry are not prepared for the freshman calculus sequence in college and must limit their choices of undergraduate major to education, social sciences, arts and humanities, if they plan to continue to avoid. mathematics courses. Students who choose to enter vocations, such as, surveyors, auto mechanics, machinists carpenters, roofers, electronics workers, and technicians in scientific and industrial laboratories, are not required to earn college degrees, but are required to study high school mathematics beyond algebra (Kninberg 1976).

According to James Havighurst and Szasz Margareet the goal for Indian education is to prepare Indians to live in two worlds: their Indian communities and the Scientific Industrial Society of today. To live within Indians communities is to contribute to the economic development of that community. With the decrease in government spending on education and social services the talent most desperately needed by Indian communities reservations and organizations are mathematics and mathematics related skills. As Raynna Green concurs Indian people need Indians with mathematic and science education.

On the other hand, if Indians choose to live in cities and off-reservations areas, Indians will need mathematics and mathematic related skills to have equal opportunity to jobs in a job market they will be dominated by high technology industry.

Recently the southwest Resource Center for Science and Engineering in cooperation with the Northern New Mexico Community College received a planning grant for a Comprehensive Mathematics Program in Northern New Mexico. The comprehensive mathematics program will benefit both Hispanics and Indians in Northern New Mexico. The proposal clearly demonstrated the need. High technology industries have been and will continue to grow throughout New Mexico. By 1990 the industries will create an estimated 12,000 jobs. Since American Indians comprise approximately 9% of New Mexico's population, American Indians should fullfill 1080 of those jobs under the laws of affirmative action.

But data on American Indian education, mathematics achievement, and median income in New Mexico indicates all the recruitment efforts of high technology industries will go in vain. The median years of education for American Indians in New Mexico is 8th grade, the median income is $2000 per year. 10th grades in New Mexico were given a proficiency examination in 1977. The examination had 40 computation items and 40 problem solving items.

New Mexico Proficiency Exam Success levels at 65% Correct by Ethnic Group:

	AMERICAN INDIAN	BLACKS	HISPANICS	ANGLOS
Computation	21%	27%	41%	72%
Problem Solving	57%	58%	79%	94%

(Southwest Res 1981)

It is clear from these scores that American Indians will have difficulty selecting mathematic and "science career choices at the college/university level. Indian communities will have difficulty hiring Indians with mathematic science, computer technology, forestry, geology, business management, etc.

I think the issue of mathematic and science education in Indian education should be a major issue for the National Advisory Council on Indian Education. The facts and realities of today's society are clear if Indians are to survive and maintain their land-base.Indian education needs to focus on science and mathematics education at the elementary secondary and post secondary levels to provide Indians with the skills necessary for self-determination and self preservation.

At this point I would like to reaquaint the NACIE board members with the conference on mathematics in American Indian Education in February 1978. This conference was sponsored by the Educational Foundation of America and American Association for the advancement of science. Raynna Green wrote the report and recommendations for this conference. Upon review this report and the recommendations I also reviewed the Seventh Annual Report to the Congress of the United States published by NACIE. In June 1980, after reading these two documents I have written a few recommendations for the NACIE board to implement at their discretion: the purpose of these recommendations is to promote mathematics and science education within Indian Education within the goals and objectives of NACIE.

1. To meet the special needs of Indians Mathematics and Science programs should include mathematics and science as it relate to Indian culture, and

community development. Mathematics and science skills are needed for economic development, reservation planning and reservation design. Indians need mathematics and science to make policy decisions, maintain stable communities, and refrain from being victimized by scientific industrial society of today and tomorrow.

To accommodate this need I recommend that Indian education title IV programs give priority to the development of mathematics ans science programs as they relate to Indian culture and community development.

2. Mathematics and science education should be a special category in the federal rules and regulations in all Indian education title IV programs where ever mathematics and science education is appropriate. At the moment mathematics and science education is a special need of Indian students and should be treated as such.

3. Mathematics and science education should be a separate category from Education, Business, Engineering, Forestry and Health among the OIE fellowships awarded to Indian students. The purpose of a separate category for mathematics and science education is to produce Indian mathematic and science teachers for the elementary and secondary level.

4. Mathematics and science education should be adequately addressed in NACIE dissemination network, press releases, newsletters and other means.

5. The NACIE board should consider ways within its jurisdiction to assist and coordinate the efforts of other national and private organizations in Mathematics and Science Education Equity for Native Americans. The purpose of this recommendation is to maximize the efforts of such organizations as American Association for the advancement of science, National Council for

Teachers of Mathematics, National Institution of Education and Ford Foundation.

6. The NACIE board should consider ways within its jurisdiction to encourage and net work research papers and education reports on mathematics and science education for Indian education. The purpose of this recommendation is to encourage papers on the state of the art, direction of research, purpose of research, and interventions. These papers should be presented at the national conferences held by NIEA (National Indian Education Association) and NCTM (National Council of Teachers of Mathematics).

7. NACIE should testify at Congressional Meetings on the importance of mathematics and science education for Indian Education and insure funding for such programs.

8. The NACIE board should promote mathematics and science education as top priority for Indian Education in the coming fiscal year 1982-1983.

9. NACIE board should stimulate issues of fund raising and support for mathematics and sciences education in Indian Education.

10. NACIE board should stimulate research to identify and assess existing mathematics and science education within Indian Education. The purpose of this recommendation is to enable NACIE board to evaluate science and mathematic education for Indians and to stimulate change toward gaining quality mathematics and science education for Indians.

11. Include within the mission of NACIE the promotion of mathematics and science education, and a coordination of a unified national effort within the jurisdiction of NACIE policy.

12. Within all federal programs providing mathematics and science education and training should be special money allocated to Indians to ensure Indians have their share fair and equal access to any federal program providing math

and science education and training. NACIE board should determine policy to meet this objective.

13. Since the responsibility of education is shifting from the public sector to the private sector, Indians must be creative to insure equal access to mathematics and science education provided by the private schools and corporations. NACIE board should investigate ways within its jurisdiction to deal with this issue.

14. Since federal money is being shifted out of education into Defense, NACIE board should concern itself with Indian education and training issues within the Department of Defense.

15. To close out Indian Education Title IV programs and monies would be a serious injustice to Indians. Any gains in Education for Indians would be lost. Indians would have little or no opportunities to equalize their skills in mathematics and science to compete in a job market dominated by High Technology Industries. Indian communities will face serious problems in their efforts to gain economic independence and quality of life for its members. It's most urgent that NACIE defend the reauthorization Act of Title IV programs for the serious damage and setbacks Indian communities will face without Indian manpower with adequate skills.

I shall end my talk with the hope that members of NACIE board have been enlightened on the importance of mathematics and science education for Indian education, Indian economic development and Indian preservation. That government shift of money from education and social sciences to defense means a shift from dependency on federal funds to a shift on economic development for Indian communities, which is creating a demand for Indian people science and mathematic related careers.

I appreciate the opportunity to present this paper and thank you for your time.

#9
4/19/82

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Testimony before the
National Advisory Council on Indian Education
Boston, Massachusetts April 19, 1982

Madame Chairperson and members of the Council:

My name is William Gollnick. I am an enrolled member of the Oneida Nation in Wisconsin. I am here today to testify in support of the reauthorization of Title IV of the Indian Education Act of 1972 (P.L. 92-318). I base my testimony on ten years of experience in Indian Education: experience which ranges from a Wisconsin gubernatorial appointment and presidency of the Oneida Nation Education Board to directorships at the elementary, secondary, and postsecondary levels. Currently I am coordinating a Title IV part b contract for the Boston Indian Council.

It has been established that there are educational needs which are unique to the American Indian. Any consideration which would lend itself to a negative posture vis-à-vis Title IV must be tempered with reflection upon the stauts which led to this most significant piece of legislation. The Kennedy report stated that the First American had become the last American in areas including education; it cannot be inferred that one decade has brought these people to parity. The Nixon Message spoke to assurances to the American Indian regarding self-determination without fear of loss of Federal concern and Federal support. I trust that this will be a kept promise.

It is demonstrable that if one obtains postsecondary education, one's children are more likely to obtain postsecondary education. With contemporary want ads reading like technical manuals, it is obvious that postsecondary education is necessary to secure meaningful employment. The future is bleak if we cannot get out children through high school. Where will the chain be broken? What will this generation of Indian people tell their children about education? Should Title IV succumb, what avenue remains for the Indian community, and most specifically, for the Indian student?

In recent testimony before the Massachusetts State Ways and Means Committee, John Peters, Executive Director of the Massachusetts Indian Commission, cited an Indian drop-out rate of 85%. This alone would indicate that the public schools are not reaching the students. If needs are not being met currently, what will be the fate of Indian-specific concerns when the fiscal picture is further depressed through continued reductions resulting from Proposition 2½ coupled with state-wide block granting priorities? It is obvious to this observer that the outcome is grim at best.

Without Title IV who will develop the curricula, methods, and techniques that can reach these children? Who--outside of Title IV--would financially support Indian educational development during this ascetic period? Who would recognize culture-specific expertise and provide the latitude and flexibility to implement new approaches and/or cultural wisdom? For at least the urban and non-federally recognized tribes, the answer would be resoundingly--No One!

William Gollnick, April 19
NACIE Testimony on Title IV

Taken from any perspective, it is logical to reauthorize Title IV. If, as would appear to be the case, austerity is the major consideration vis-a-vis the fate of Title IV, then one should consider the following: 1) Title IV programs can contribute to an academic, social, and cultural environment in which the student can relate and ideally succeed. 2) The innovation and community input speak to local control and/or potential replicability. 3) A student who finds something in his/her educational environment that is relevant and supportive is more likely to continue to become involved in his/her education--and complete it. 4) Graduates are more likely to become employed taxpayers. 5) Those who do not complete their educations will likely not.

From educational, economic, and cultural perspectives the reauthorization of Title IV makes sense. The future of Indian people is at stake--particularly those not served by the Bureau of Indian Affairs. I pray that you will be successful in your efforts to gain support in Congress for the reauthorization and necessary concomitant funding.

Respectfully Submitted,

William Gollnick

#10
4/19/82

Submitted By: Ms. Mary Fritz
Teacher Aide
Boston Indian Council, Inc.
105 South Huntington Avenue
Jamaica Plain
Boston, MA

For the record, my name is Mary Fritz. I am a Micmac Indian. I am also a concerned Indian parent, and an employee of the Boston Indian Council in the After School Program.

I am here to testify in support of the reauthorization of Title IV of P.L.92-318, the Indian Education Act of 1972.

Indian students have unique needs. Until 1972, when Title IV was enacted, these needs were barely being met. The needs of Indian students in urban areas and from non-federally recognized tribes, who exist with or without federal recognition, were not being filled at all. Title IV focuses on these Native American populations. Title IV approaches Indian education on a broad basis, providing funds for many aspects of Indian education which would otherwise be ignored.

Title IV should be reauthorized. Without Title IV, the progress made in school systems with Indian student minorities will regress. Indian students have the highest school dropout rate of any minority in this country. Title IV deals effectively with Native American students because it includes their community, holistically involving the students's world in their process of education. Without this perspective, the learning process is disjointed.

Indian culture plays an intrinsic role in Indian life. For over one hundred years, the United States government tried to negate Indian culture in the education offered to Native American people. To be blunt, this policy of forced assimilation just didn't work. That educational system failed. With Title IV, the federal government finally recognized the importance of Indian culture to the education of native peoples. But the work has just begun. To cancel TitleIV now would be to return to the proven failure of the past educational program. Reauthorizing Title IV would be a signal to all Native American people that the United States government acknowledges and respects their various distinct cultural heritages, and the importance of those lifestyles to their education.

The economic scene is certainly bleak, but discontinuing TitleIV will only worsen an already poor situation. While transferring Indians to non-Indian programs appears to save a few dollars now; the past one hundred years has demonstrated that such a move will cost society more in the future. Employment is obviously directly tied to education. Without appropriate education for Indian students, the potential unemployment problems for untrained Indian people are innumerable. The task has just begun. Please, let us continue the work, and not falter now.

#11
4/19/82

Submitted By: Mr. Dhamma Sondaka
Board Member of Boston Indian
Council, Inc.
105 South Huntington Avenue
Jamaica Plain
Boston, MA

I, Dhamma Sondaka, Seneca, Board Member Boston Indian Council strongly urge the Reauthorization of IV of Public Law 92-318, the Indian Education Act of 1972.

This reauthorization is essential to the survival of Native American culture in the following ways:

1. By means of Federal funding, Native Americans can obtain the knowledge needed to survive and grow, provided the education provided addresses their real economic and social needs.

2. In asking this Reauthorization, the Native American Nations which have treaty relationships - a part of the United States of America Constitution - are merely asking that the present Administration of the U.S.A. honor the obligations made to last "... as long as the sun shall shine and the grass shall grow."

3. The support of "Indian" Education, imparted by Indians and sensitive to the needs of the First Inhabitants of this land is an obligation implicit in the treaties, which being a part of the Constitution under International Law cannot be unilaterally abrogated.

4. Any reduction in Federal funding of Indian Education, or its transfer to departments of the Federal or State Governments with a record of hositility and insensitivity towards the aspirations and interests of the Indian Nations would reintroduce the era of attempted "termination" of Indian Nations and Reservations. This must not happen. I do not presume to speak officially for views not specifically sanctioned by other Native American people or their organizations. I do, however, believe my views stated above are widely shared by the Native American people.

#12
4/19/82

eidas bringing sev-
d hundred bags of
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rving army at Val-
Forge, after the
onists had consisten-
ly refused to aid
m.

Oneida Tribe of Indians of Wisconsin

Phone: 869-2783

1288 Fish Creek Road

De Pere, WI 54115

[illegible]

Because of the help of this Oneida Chief in cementing a friendship between the six nations and the Colony of Pennsylvania, a new nation, the United States was made possible.

Resolution No: 4-7-82-A

Whereas, the Oneida Tribe of Indians of Wisconsin is responsible for providing and/or facilitating educational opportunities for its members, and,

Whereas, it is the intent of the Oneida Tribe of Indians to ensure that programs affecting it's membership are optimally managed and administered,

Therefore, be it resolved that the Oneida Tribe of Indians goes on public record to oppose the dissolution of the Office of Education and the subsequent transfer of Title IV of Public Law 92-381 parts A, B, C and D to the Bureau of Indian Affairs.

Be It Further Resolved that the Oneida Tribe opposes any major budget reduction for Indian Education Act or Impact Aid Programs that affect Indians.

Be It Further Resolved that in recognition of the need for federal fiscal austerity, the Oneida Tribe of Indians respectfully request that Title IV, Parts A, B, C and D of Public Law 92-318 remain at appropriation levels consistant with fiscal year 1982 during fiscal year 1983.

Be It Further Resolved that the Oneida Tribe of Indians requests the administration to keep their promise and consult with Indian leaders on matters of legislation and appropriations that affect them.

CERTIFICATION

I, the undersigned, as Secretary of the Oneida Business Committee, hereby certify that the Oneida Business Committee is composed of 9 members of whom 5 constitute a quorum; at a meeting duly called, noticed and held on the 7 day, of the month of APR., 1982, the foregoing resolution was adopted by a vote of 7 for, 0 against, and 0 abstention(s).

Signed: Gordon McLester
Tribal Secretary

#13
4/19/82

Boston Indian Council, Inc.
105 SOUTH HUNTINGTON AVENUE
JAMAICA PLAIN, BOSTON, MASS. 02130
Telephone 232-0343-44

TESTIMONY SUBMITTED BY ANNIE JOHNSON
TO THE NATIONAL ADVISORY COUNCIL ON INDIAN EDUCATION
CAMBRIDGE, MASSACHUSETTS, APRIL 19, 1982

My name is Annie Johnson. I am a Micmac Indian. I am employed at the Boston Indian Council, Inc., teacher aid in the Adult Education Program. I teach and tutor students in Adult Basic Education and preparation for G.E.D. I also teach Micmac language classes.

I am here to testify in support of the reauthorization of Title IV of P.L. 92-318, the Indian Education Act of 1972. I don't know very much about the administration part of the Act but I do know that it has helped Indian children in the Public Schools and the Adults in continuing with their Education. Before Title IV, children in the Public Schools did not have anyone to go to when they had problems with school work or teachers. Parents of these children did not know how to deal with the Public School teachers or administrators. Children were misclassified, they were classified as Spanish, white, black or other, but never as Indian children. Children came home with notices or letters to their parents from the school department written in Spanish.

Since Title IV some of these problems have been eliminated. We now have Indian people working in the School department, counseling students and educating parents in meeting with teachers and how the whole Education system works. There are now parents who go to parent conferences but a lot still has to be done to educate teachers in the School system. I went to a parent conference last month and my sons teacher was furious because my son's hair is too long. She also said that it was nice for people to speak two languages at home but that we should teach our children proper English. With Title IV monies our children will have a brighter future, not only do they have access to Education on their culture, language, art and history, but they are also encouraged to stay in school, get a good Education so that they will have good careers.

In Adult Education students have a good self image because they are always encourage by their teachers. They are taught in both languages and they work at their own pace. They realize how important Education is for their future. But, recognizing the staggering economy and the lack of available jobs for the untrained, coupled with dismal track record of American Indians in non-Indian programs, the outlook for education/employment is bleak. If Title IV is not continued the picture is disasterous. People without education cannot get decent jobs. Either they work in factories and make very little money or stay on Welfare. It is hard to get a job with just a G.E.D.. People are starting to realize that they need a college degree. As teachers in Adult Education we see Indian people build up their self confidence. They complete one task and realize that they are capable of accomplishing more. They are slowly starting to realize that a good education can get them into good paying jobs and most important, off Welfare.

We have had graduates from Adult Education who found good jobs and some that have gone on to get a college degree. Because parents have returned to school themselves, they in turn encourage their children because without education they were not able to get good jobs. The parents are also able to help their children with their homework and they get involved in school associated activities. We now have some Indian People , who are teachers, nurses, lawyers, people who hold good jobs in telephone companies, MBTA, and Electric companies. Most of these people graduated from an Indian Adult Education program. Many of these people came to class thinking that they could never make it in the outside world. This is only the beginning, because of these few Indian people who have succeeded, they will in turn encourage others to go on. Our motto in Adult Education is "I can be Anything."

For these reasons stated above, give us a chance. We are just beginning; we have come a long way but there are rougher roads ahead. We need the reauthorization of Title IV of P.L. 92-138, the Indian Education Act of 1972.

Thank you for your time and attention, and I encourage your support when you make your recommendation. Thank you.

INDIAN FELLOWSHIP PROGRAM
804 CENTRE STREET
JAMAICA PLAIN, MA

NACIE Testimony
Submitted by:
Ray Morrison
Office of Indian
Education

Chairperson Redbird, NACIE council members, thank you for allowing me to present my testimony relating to Indian Education. My name is Ray Morrison. I am an engineering student attending Northeastern University under the Title IV-B, Indian Fellowship Program. As a participant within various Title IV programs in the past six years, I felt it necessary to express to you my feelings and concerns about the future of the Indian Fellowship Program.

During my four years as a fellow, I have experienced much as a student and as a concerned Indian community member. This experience has proven to be invaluable to me, and hopefully to others, in times which required sound decision making. As I approach the end of my undergraduate training, I ask myself if I would have been able to come this far without the special assistance provided through this program. The answer is undoubtedly, no!

We are all aware of the ever increasing costs of obtaining an education. Tuition at most colleges is rising at a rate which makes it virtually impossible for those without adequate financial support, to attend. Unfortunately, alternatives for educational funding are also decreasing at an alarming rate. These factors coupled with the fact that the current administration is seeking to discontinue this program and many other Title IV programs will certainly have a devastating effect on Indian Education.

NACIE Testimony
Submitted by:
Ray Morrison

If a college education is to be restricted to only the rich, then I say we, as Indian people, are rich: rich in culture, language and most of all, in spirit. Education to us is a right, not a privilege based on financial ability.

I have benefitted immensely from this program. In turn, as I enter into a professional career as an engineer, I plan to continue using my knowledge and training to help Indian people. All of this would not have been possible without the existence of the OIE-Indian Fellowship Program. It must be allowed to continue so that others, such as I, will be able to develop their educational potential to the fullest. I urge you to recommend the continuance of this worthy program, and the reauthorization of Title IV-The Indian Education Act.

Reauthorization Testimony

#15
4/19/82

Office of the Governor and Council
Timothy Love
Governor
Joseph Francis
Lt. Governor
Reubin Phillips
Representative

Community Building
Indian Island
Old Town, Maine 04468
(207) 827-7776

4/19/82
National Advisory Council on Indian Education
Public Hearing - Indian Education
Cambridge, Mass.

My name is James Sappier, Indian Co-Chairman of the Federal Regional Council - Indian Task Force, and have been authorized to submit this testimony on behalf of the New England Indian Representatives.

The Federal Regional Council - Indian Task Force was developed from an Indian Work Group in 1969, and since has been an active forum for Federal Agency Representatives and Indian Tribes and Organizations to resolve issues. The composition of the I.T.F. is balanced with equal representation from Federal Agencies and Indian Respresentatives. Federal Agencies are Interior, Agriculture, Labor, Health & Human Services, Housing and Urban Development, Transportation, Energy, Education, and the Environmental Protection Agency. Indian Representatives are two from each of the six states; one representing the reservations, and one representing off-reservation groups.

As a past member of NACIE and not having a background specific to educational disciplines, my comments today reference predominately the relationships of NACIE to the Secretary of Education, the Office of Management and Budget, the President, and Congress.

My background in Indian Affairs is governmental, and grants and contracts orientated, therefore, I found while on NACIE the lack of;

1. Constant accurate reporting to the Secretary, President and the Congress concerning major issues affecting Indian Education. For example, resolutions passed by the Council are not directly submitted to Congressional Leadership/ Committee Chairman or, staff. NACIE should establish a laison system with Congressional staff persons, and, not be jeopardized or compromised by the Administration or it's staff. NACIE is an arm of Government a Quasi-governmental entity having both the Executive branch and the Congressional branch to answer to. Monthly reporting besides an annual report would solidify the Congressional intent to improve education, as well as keeping Congressional members abreast of much needed immediate changes. Monthly Reports would make-up the Annual Report.

2. From time to time, legal opinions when needed by OIE and NACIE, are written in-house by the Department of Education's legal Counsel. I find that practice should be checked by NACIE. Indian law firms under 93-638 Indian Preference should be allowed to contract legal services from NACIE and if possible OIE. The major issue here is whether or not opinions received are slanted in favor of OIE, DOE, and the Administration.

3. Insuring follow-up; submittal to the Secretary of Recommendations with respect to funding, go through the OIE, DOE, OMB and are eventually incorporated into the Presidential proposed budget, all levels have the opportunity to review, modify, disregard, or whatever.

   To preserve accurate submittals, NACIE by resolution should immediately undertake direct prevention methods: (a) submit recommendations to the Administration of levels of funding needed to sustain all educational programs, (b) submit the same recommendations to the respective Congressional Committees as part of the Annual Report, but, on a monthly basis. (c) mail out to all Indian educational and governmental entities, for their information and use.

   As in the past, OMB has compromised OIE, Indian education and NACIE recommendations; for that matter the Department of Education likewise has similarily compromised budget requests; has NACIE adhered to recommendations submitted by Indians, and what follow-up has been made?

4. NACIE's support and review of all educational programs have been limited in priority to Title IV: NACIE must assume full responsibility for all education programs, being made available to Indians. Even though Title IV is proposed to be cut $26.7 Mil., School Construction $8.0 Mil., along with BIA education, higher education Impact Aid, J.O.M. AVT, Community Colleges, etc; these are easily identifiable and should be on priority. But, when NACIE places a priority on one program , some other program would and could suffer losses in scope and funding.

   NACIE should inventory all agencies and their education, training, and technical assistance programs. NACIE by virtue of prioritizing programs will compromise other educational programs. Resolutions should be developed for Congressional and Administration staffs in support of all programs.

Under block grant programs to States, what is the impact on Indians and the affect on Indians attending public schools, on and off reservations?

5. Newly recognized Tribes, Tribes pending and participating in the Federal Acknowledgement Process (FAP), and Tribes recognized are undergoing considerable stress, especially those fully contracting under 93-638.

   All are affected by budget cuts, newly recognized tribes are without equitable base funding resources; Recognized Tribes are looked upon as having fully funded programs, even though they too are suffering from cuts; FAP extends recognization and services, the potential is unknown although current events tell us they just won't be receiving service and program dollars.

   NACIE is identified as the educational advocate and legal entity to intervene on behalf of Tribes and Organizations to the Administration and Congress.

   Indians cannot afford these cuts being passed on to us, by the Administration. NACIE must argue based on ~~the Administration must~~ adhere ~~to.~~ A treaty, law or Executive order which has legally bound the Administration to provide services to Indians. Each Tribe, Band or Nation has a specific document exercised with the U.S. Government. NACIE should immediately submit to Congress a listing of all Tribes affected with attached summaries on the affect of cutting much needed programs, in the Indian Community.

6. Involvement with Indian Organizations, Rural and Urban; Organizations should be eligible for all educational programs that are not duplicated by the state or local community within which the Organization would be located. NACIE should intervene on behalf of all Indian Organizations within the States to assure that these organizations and members are being provided services by each respective State, County, City, or Town. Wherever possible Organizations should be allowed to contract or sub-contract services, from any governmental entity.

7. New England involvement; Tribes and Indian Organizations have very limited involvement in Title IV - many times school committees and staff have decided not to participate in developing applications for B & C programs. In

most cases, there is an assumption that (a) those B & C Applications funded previously will be continued, (b) Competition is too severe for the amount of dollars available, (c) time, resources, or, staff for developing applications is not available.

For purposes of reaching-out and expanding B & C programs, NACIE should allocate 10% of the funds to Regions.

This amount is to assure non-participating geographic areas that funds would be available to them. Perhaps, readers selection should be studied/surveyed to determine geographically whether or not an over-load does exist proportionately. Based on funding and proposed cuts, Region I will be on the bottom in funding allocations.

8. Coordination; NACIE, has limited resources and in this regard a limited output. NACIE should wherever possible utilize Federal and State Agencies, and National, Regional, and Local Indian Organizations to support NACIE's position on all issues. Program data and information is readily available from these sources, and, more than likely much more up to date. NACIE should call on these organizations to assist in developing reports and replies to the Administration and Congress, as well as giving testimony.

   The New England FRC-ITF supports NACIE's Resolution of not transfering OIE-TIV programs to the BIA.

   Congress does have the power to add-on budget dollars.

NACIE has the support of the FRC-ITF members, and, we thank-you for coming to Region I, New England and allowing us to present our educational concerns.

James G. Sappier,
FRC - ITF Co-Chairman

JGS/mjp

Senator COHEN. Thank you very much, gentlemen. Your testimony has been most helpful. The committee will stand in recess until 2 p.m. This afternoon we will resume with panel No. 2 with Charles Geboe, Lee Demmert, Jack Belkham, and Tom Patterson.

[Whereupon, at 12 noon, the committee recessed to reconvene at 2 p.m. the same day.]

AFTERNOON SESSION

Senator ANDREWS [acting chairman]. We will continue the 2-day oversight hearing on Indian education oversight.

This afternoon we will hear from the administration witnesses. We are fortunate to have with us superintendents of four BIA boarding schools scheduled to be closed at the end of the 1982–83 school year.

The superintendents do not have prepared statements for this committee hearing. They are available for questions and answers.

We will begin with panel II. Will the superintendent from the Intermountain Indian School of Brigham City, Utah, come foward? Would the superintendent from Mount Edgecumbe Indian School, Alaska, also come up? Also would the superintendent from Flandreau Indian School in South Dakota and the acting superintendent of the Sequoyah Indian School in Oklahoma come forward, please?

As I understand, gentlemen, you do not have any prepared statements. I can understand that. We have some questions for each of the superintendents.

I hope we can rotate. Perhaps we can begin with the superintendent on my left as far as answering the first question and then go to the second one, and hopefully we can get some input from each one of you.

First, is there a need for these schools? As professionals and as veteran Indian educators, do you believe there are alternatives which are just as good or better?

PANEL CONSISTING OF CHARLES GEBOE, SUPERINTENDENT, INTERMOUNTAIN INDIAN SCHOOL, BRIGHAM CITY, UTAH; LEE DEMMERT, SUPERINTENDENT, MOUNT EDGECUMBE INDIAN SCHOOL, MOUNT EDGECUMBE, ALASKA; JACK BELKHAM, SUPERINTENDENT, FLANDREAU INDIAN SCHOOL, SOUTH DAKOTA; AND TOM PATTERSON, SUPERINTENDENT, SEQUOYAH INDIAN SCHOOL, OKLAHOMA

Mr. GEBOE. My name is Charles Geboe, and I am representing Intermountain School. What is your question again, please?

Senator ANDREWS. My question is, is there a need for the school? As a professional and as a veteran Indian educator, do you think there are alternatives that would be just as good or better? In other words, should we shut them down, and if we do, what happens to the children?

Mr. GEBOE. No; I think that is one of the questions that needs to be carefully examined and very carefully explored.

Senator ANDREWS. That is true. That is why we asked it of you.

Mr. GEBOE. I think one of the things we would like to recommend is that you have a copy of an off-reservation residential schools operated by the Bureau of Indian Affairs report dated September 15, 1978, which I think does a very good job of explaining the role and the function and direction of off-reservation boarding schools.

[Subsequent to the hearing the following information was received for the record:]

STUDENT INFORMATION

The student count data in this report, obtained through the BIA or on the date of the site visit, will reflect different totals, because the numbers represent measurement at different times.

Information provided by the Office of Indian Education Programs reveals that the 4959[1] students are enrolled in the ORBS under various criteria as follows:

Social:	
Personal/parental	1,306
Social	1,367
Subtotal	2,673
Education:	
Academic	1,194
Curriculum	20
Isolation	302
Subtotal	1,516
Unknown	770
Total	[1] 4,959

[1] Number of students as reflected in BIA education information system as of Oct. 15, 1979.

SOCIAL

Most students are admitted under the Bureau's social criterion regulation, 62 BIAM 2.5.2.B:

(1) Those who are rejected or neglected for whom no suitable plan can be made.

(2) Those who belong to large families with no suitable home and whose separation from each other is undesirable. (sic)

(3) Those whose behavior problems are too difficult for solution by their families or through existing community facilities and who can benefit from the controlled environment of a boarding school without harming other children.

(4) Those whose health or proper care is jeopardized by illness of other members of the household.

EDUCATION

The BIA education criterion, 62 BIAM 2.5.2.A makes student admittance possible under the following conditions:

(1) Those for whom a public or Federal day school is not available. Walking distance to school or bus transportation is defined as one mile for elementary children and 1½ miles for high school.

(2) Those who need special vocational or preparatory courses, not available to them locally to fit them for gainful employment. Eligibility under this criterion is limited to students of high school grades 9 through 12 and post high school grades 13 and 14.

(3) Those retarded scholastically three or more years or those having pronounced bilingual difficulties for whom no provision is made in available schools.

According to the most recent data from the BIA Office of Indian Education Program, a profile shows that 49.9 percent of all students in Off-Reservation Boarding Schools are from Arizona and Oklahoma. Of the 1,705 from Arizona, 1,168 students are in a school outside Arizona:

	Students
Sherman, Calif	500
Intermountain, Utah	328
Stewart, Nev	340

All but six of the 768 Oklahoma students are in Oklahoma ORBS schools.

However, the Oklahoma schools are attended by the following percentages of students from other states:

	Percent
Secondary:	
Chilocco	41
Fort Sill	34
Riverside	30
Sequoyah	12
Elementary:	
Concho	11
Seneca	16

Mr. Geboe. In answer to your first question, yes, I believe there is a need for the off-reservation boarding school. I think that the lack of alternatives for a lot of students is the reason that the off-reservation boarding schools are operating. I think that before we talk about there no longer being a need for off-reservation boarding schools we have to take a look at developing local options and building schools where there are no schools and having them become a reality.

Until that happens, I think there will be a need for the off-reservation boarding schools.

Senator Andrews. What do we do with the children now if we shut the schools down? Will their educational and human needs be as well served in other areas, and if so, where?

Mr. Geboe. I have some real serious questions about that as to the quality in terms of meeting the needs of the students. At Intermountain School, we are talking basically about students who kind of deal on the fringe area of the school population. These are students who are either single parents, students who are having problems at school, or students who meet some sort of social criteria in order to qualify for the school. So, I think consequently without having some local alternative for them, I just do not know where the children are going to go.

I am concerned that at Intermountain School we have the only parent program within the Bureau of Indian Affairs in which we have around 31 girls and 31 babies. I do not know what is going to happen to them.

Senator Andrews. In the planning within the BIA for closing these schools, have you not been giving some input as far as where the children are going to go? Did they ask you about what you felt were the possibilities for continuing the education of the young people?

Mr. Geboe. Up to now we have not.

Senator Andrews. This is the first time anyone has asked you what could happen or what should happen to these children and their educational opportunities?

Mr. Geboe. We have never been asked that in terms of what is going to happen to the children or the students.

Senator Andrews. Mr. Demmert, do you have comments on that same line?

Mr. Demmert. I was just about to clarify that. No. 1, I think when Mr. Geboe refers to "we" he is talking about we in the sense of Intermountain. Mount Edgecumbe, being in Alaska, I think as far as the policy decisions that have come down from central office, perhaps they have been treated somewhat differently in each area. The situations or the policy decisions that have come down may have come to us at different times. So I would just like to make that point clear that I will be speaking for Mount Edgecumbe.

Senator ANDREWS. In speaking for Mount Edgecumbe, let me run the same question by you. Do you feel the children in Mount Edgecumbe do have alternative places where they can get the same quality education with the same attention to the individual as you are providing?

Mr. DEMMERT. I would like to answer that question by explaining a little bit about the educational situation in Alaska. First of all, the only Bureau of Indian Affairs off-reservation boarding school in Alaska is Mount Edgecumbe. Mount Edgecumbe is the only large boarding school in the State. There are two others, and one is Catholic and one is Covenant, and they are quite small.

No. 2, in the State of Alaska the Department of Education has tried several delivery programs; delivery systems to meet the needs of the rural students in Alaska. I am sure I do not have to talk about the isolation, the remoteness of many of the villages in the State and the difficulties we have with communication and transportation.

The State, as I mentioned earlier, has tried several delivery systems to provide a good education to the rural students. The last two they have tried, in the opinion of many and especially in the native community, have failed: the boarding home program and the State-operated schools program in the local villages. Students were not getting the quality education and were not progressing at the accelerated rate that they needed.

Now, just recently, since 1976, because of a court settlement called the *Molly Hootch* case or court settlement, Alaska began building small high schools or providing high school programs in every small village in the State that wanted one. The only requirement was that the village had to have an elementary school, and if that village had at least one high school aged student and the local village wanted a high school program in that village, then the State had to provide it.

They are doing that now and have been building schools since 1976. It is the opinion of our school board and the 70-odd villages that are represented at Mount Edgecumbe, in many cases, that the small now-developing village high schools and programs are not providing the necessary educational program for the high school aged children in many of the villages. Our school board stands very strongly in opposition to the closure and is very, very supportive of the continuation of Mount Edgecumbe.

Senator ANDREWS. Did the BIA consult with you before they made their decision as to what was going to happen to these youngsters?

Mr. DEMMERT. This is the second time we have been told that we would close. A year ago we were to close after the last school year, and that decision was changed before Christmas. We heard about the decision to close Mount Edgecumbe before consultation took place, but the consultation has taken place since then.

Senator ANDREWS. In their consultations with you after the fact, do you have the feeling that they know where these children are going to go and that adequate provisions have been taken for their education and individual welfare?

Mr. DEMMERT. The Bureau has and did begin talks with the State Department. They did open up communications with the parents in laying some initial plans for the placement of students who are now attending Mount Edgecumbe should the school close. Yes, there is some talk and there has been some planning and some research on that.

Senator **Andrews**. There always can be some talk. Let's get into the quality of talk. Again, as an educator, and one who cares for Indian young people, are you satisfied with the quality of the planning and the depth of understanding that has been shown by these people who are studying the transfer of these Indian students?

Mr. **Demmert**. I do not think the quality of the talk has been good yet, and there are a couple of reasons for that. No. 1, as I mentioned, the decision to close the school has gone on for a couple of years. So plans to place would get along about half way and then they would cease because the school now had another year. So they would slow down.

In working with the parents and the school board, my own opinion would be that the alternatives, other than going to school in the local village, that have been mentioned with regard to placement are not good alternatives.

Senator **Andrews**. Mr. Belkham, how does it look to you and the responsibility you have to the Flandreau School? Are you satisfied that the students are going to be taken care of?

Mr. **Belkham**. Mr. Chairman, at this time we are not scheduled to close until the end of the 1983–84 school year. A lot of this has not been covered at Flandreau yet. At this time, I would not be satisfied.

Senator **Andrews**. I understand that a number of the students from the Wahpeton School in North Dakota, which is being closed, are being sent down to you, and you are to assure the continuation of their needs. You are scheduled to close in 1983. That is an interesting daisy chain. How do they justify that?

Mr. **Belkham**. They would have 2 more years at Flandreau. They would have their freshman and sophomore years the way it stands at this time. Then they would have to look for someplace else.

Senator **Andrews**. Have any RIF notices been sent to your employees?

Mr. **Belkham**. No, there have been no RIF's.

Senator **Andrews**. Because you are maintaining, and as a matter of fact next year with the transfer of the Wahpeton students you might well have an increase in enrollment.

Mr. **Belkham**. We usually get eighth graders from Wahpeton anyway, whether they are in operation or not, because we only have grades 9 through 12.

Senator **Andrews**. So you normally have the pattern of input from Wahpeton?

Mr. **Belkham**. From Wahpeton, yes.

Senator **Andrews**. Then you are just going to get the normal number of transfers?

Mr. **Belkham**. Yes, sir.

Senator **Andrews**. They are not going to transfer the elementary school?

Mr. **Belkham**. No, sir.

Senator **Andrews**. And you have had no reduction in force memorandums?

Mr. **Belkham**. No, we have had no reduction. We have had a conversion from A's to F's, which means that instead of being full-time, 12-month workers, we will have some who will be on furlough during the summer. So we have had some adverse action, but not a true RIF.

Senator **Andrews**. Do you feel that down the line alternate courses of education and provisions for the individual needs of these students can be made outside of your facilities?

Mr. **Belkham**. It appears not at this time because most of the students that we have have failed in the other schools that are opened to them.

Senator **Andrews**. Do you think that moving them out of the type of school opportunity you provide will be a difficult action for the children?

Mr. **Belkham**. I think it will be detrimental to the young children, yes, sir.

Senator **Andrews**. Did they consult with you before they made this decision?

Mr. **Belkham**. No, sir.

Senator **Andrews**. Finally, Mr. Patterson, do you have anything to add to the line of comments that your colleagues have commented on?

Mr. **Patterson**. Mr. Chairman, on the question of need, I have selected a group of people who we can all listen to and can sympathize with in what they have to say, and that is the students. I have some written testimony from students that was done strictly on their own without any prompting from any staff member. It was done as a class project. I think they can say in their own words and in their own way more than I, in my best rhetoric and persuasiveness, could do.

Senator **Andrews**. How many statements of that type do you have, Mr. Patterson?

Mr. **Patterson**. I have 16.

Senator **Andrews**. Without objection, we will include them in the record at this point.

[The statements follow. Testimony resumes on p. 387.]

Sequoyah High School
Chickasaw Hall
Tahlequah, OK 74464
March 26, 1982

Director of Indian Education
Programs, BIA
Eighteenth and C Streets, N. W.
Washington, D.C. 20240

Dear Sir

I am a Senior at Sequoyah High and am writing to express my opinion of Sequoyah and why it should be kept open. I have attended Sequoyah for 4 years and am now graduating. Like many other students for one reason or another, I might not have stayed in school if it weren't for Sequoyah.

I have learned a lot about life and living while at Sequoyah. I learned many things I would not have had I attended a public school.✓ The academic program makes it one of the better boarding schools, along with the teaching staff and facilities.✓ *

I can only say that if Sequoyah were to close, there would be many Indian students who would never know the satisfaction of✓walking across that stage to receive a diploma. ✓

For many more years I hope Sequoyah will stand. So many more Indian students, like myself, who otherwise would have dropped out of school, now can see life through different eyes.

After graduation, May 14, 1982, I plan to go to Orlando, Florida, for 8 weeks basic training in the United States Navy. So you see, through the hard work and discipline I learned at Sequoyah I, like many others, am prepared to excel in life.

I am sure if you look into all aspects of Sequoyah,✓ you too will feel Sequoyah is necessary for the future of the American Indian.✓ Thank you for reconsidering. *

Sincerely

Faye Salazar

Faye Salazar

Chickasaw Hall
Sequoyah High School
Tahlequah, OK 74464
March 26, 1982

Director of Indian Education
Programs, BIA
Eighteenth and C Streets, N.W.
Washington, D.C. 20240

Dear Sir

If I was not attending Sequoyah High School I would probably be a dropout. Boarding school was my last hope for getting an education so I decided to try it out. I was not making it in public school like I was supposed to and it seemed uninteresting to me.

When I came here to Sequoyah, my freshman year, I thought at first I would not like it here but I was wrong. Here, I found a lot of friends who were from different tribes and wanted to get a good education. You do not have to be real smart to become something just so long as you try your very best. Sequoyah offers good dorms, academics and athletic facilities, and also understanding staff members.

Now that I am a Senior I have decided to further my education in business and attend college in the fall. I am proud to have attended Sequoyah High School and hope that it stays open for other Indian students who cannot make it in public school but want to get an education.

Cordially yours

Yvette Battiest

Yvette Battiest

Chickasaw Hall
Sequoyah High School
Tahlequah, OK 74464
March 29, 1982

Director of Indian Education
  Programs, BIA
Eighteenth and C Streets, N.W.
Washington, D.C. 20240

Dear Sir:

My letter concerns the closing of Sequoyah High School. Many of the faculty and students as well as myself are quite concerned about the closing of the school. I am a senior now and won't have to worry about high school anymore after this year but my following classmates have another year or more.

Many of the students here at Sequoyah like the school, and wish to finish their education here. They are looking forward to spending their next year or four years with their friends here.

Some of the students are here because they have family problems or have difficulty adjusting to the public schools. In public schools you are not able to express yourself truthfully, while here at Sequoyah a person can be himself and not worry about having to look up to anybody. You can express how you feel, and learn more about yourself. People need to learn about themselves before they can relate to others.

Before I came to Sequoyah I was in a number of Foster Homes and had to hold a lot of myself in. But since I came here I have found out so many things about myself that I am really thankful that I did come.

Here at Sequoyah the students can learn about themselves and learn to relate with people around them. I hope Sequoyah stays open so my following classmates will have something to look forward to. A place to call their second home.

Sincerely,

Alicia Lawhead

Alicia Lawhead

Chick Hall
Sequoyah High School
Tahlequah, Ok. 74464
March 26, 1982

Director of Indian Education
Programs, BIA
Eighteenth and C Streets, N.W.
Washington, D.C. 20240

Dear Sir

I want Sequoyah to stay open because there are a lot of Indian Students who need a place to go and get an education. If Sequoyah was to close down tomorrow at least half of the students will quit school.

The students here seem to learn and speak out a lot more. Most students that come here come because of family problems or income.

Students not only learn school work, but also they learn to cooperate and live with other people. We kind of learn to be on our own early and make our own decisions. I think this is good because when we do get out, we will be ready to be on our own a little better.

Sincerely yours

Rhonda Redbird

Rhonda Redbird

Chickasaw Hall
Sequoyah High School
Tahlequah, OK 74464
March 29, 1982

Director of Indian Education
Programs, B.I.A.
Eighteenth and C Streets
Washington, D.C. 20240

Dear Sir

I have written several letters before concerning the subject of the closing down of Indian Boarding Schools. The last letters I wrote were about the closing of Fort * Sill Indian School. The school was closed regardless of all efforts to save it. Now you have tracked me down to Sequoyah High School and are trying to close this school down.

Am I not worthy of receiving a High School diploma from an Indian School or is it only a coincidence that every Boarding School I attend is ready to close down before I graduate? There aren't many of these Indian Schools left so why not give me and all Indian students a chance to complete a part of our education.

Sincerely yours

Kara O'Keeffe

Kara O'Keeffe

Sequoyah High School
Chick Hall
Tahlequah, OK 74464
March 26, 1982

Director of Indian Education
Programs, BIA
Eighteenth and C Streets, N.W.
Washington D.C.

Dear Sir

The word is out that Sequoyah is to be shut down in the future. Many feelings are produced because of this news. I am from Charleston, South Carolina, and although I do not plan to return to Sequoyah after this year, I feel that it would be a great benefit to the Indian people if the school was not shut down. I have heard some students say " If Sequoyah is closed, I'll quit school." With as many intellegent students as we have at Seqouyah, I feel it would be a great waste.

The students here are proud of their heritage and are here to get an education not only from books but by sharing with other Indians. Seqouyah has become a part of every student here. Some plan to have children and send them to Indian boarding schools. To take Sequoyah from us would be unfair. Sequoyah should stay open, leaving the students here something to look forward to. We are willing to work together to keep our school and hope that you will consider our feelings.

Sincerely

Rhonda Jo McIntosh

Rhonda Jo McIntosh, Sophomore

Chickasaw Hall
Sequoyah High School
Tahlequah, OK 74464
March 29, 1982

Director of Indian Education
Programs, BIA
Eighteenth and C Streets, N.W.
Washington, D.C. 20240

Dear Sir

I am writing this letter to you to let you know that Sequoyah High School is needed to stay open. It has a purpose and many of the students need this school in order to have a good education.

There are many families that can't afford to keep their children at home so they need a place to send their children so that they can get a good education and be ready to go out into the world whenever they graduate.

Many students have problems at home, they can't get along with their families or their family can't afford to keep them at home, so they need a place to send their children so that they can get the education that they need. And if children are at a place where they don't have any worries they tend to learn more.

Sequoyah High School is needed to stay open for many reasons, but mostly to give the students that are here now and the future Sequoyans a good education, and Sequoyah can give it to them.

Sincerely

Talana Lowe

Talana Lowe

Chickasaw Hall
Sequoyah High School
Tahlequah, OK 74464
March 29, 1982

Director of Indian Education
Programs, BIA
Eighteenth and C Streets, N.W.
Washington, D.C. 20240

Dear Sir

I am writing to give some of my points and views on why Sequoyah should not be closed.

I for one am proud to say I go to Sequoyah and I have been going here for 3½ years. If this school were not open and I had not had an opportunity to come here, I don't think I would have had the chance to learn what I was taught here than in any public school.

By being here, I came to be an independent person, and to interact with people from different places who are from different tribes. I came up here because of family matters at home and I wasn't doing so good in public school so I came here. There are lots of kids going here for similar reasons, some warded of the court and others that have their reasons. I think that other lower classmen should have their chance to come to a boarding school.

This is my senior year and I will further my education by going to college. I hope other lower classmen will have the same opportunity as I did.

Cordially yours

Sonya Walker

Sonya Walker

Chickasaw Hall
Sequoyah High School
Tahlequah, OK 74464
March 29, 1982

Director of Indian Education
Programs, BIA
Eighteenth and C Streets, N.W.
Washington, D.C. 20240

Dear Sirs

Before I begin this letter I would appreciate your undivided attention, to take time and try to understand and imagine how it is here at Sequoyah. Then maybe you'll know why so many people are concerned.

The reason for my writing this letter is very simple, today I found out that they plan on closing Sequoyah, and yes I'm wondering why. I know there must be a thousand reasons and explanations you could give me, but I feel that there is no real reason, maybe it's money, but isn't it always?

I am a Senior here at Sequoyah, I have been here for two years. I was previously attending Fort Sill Indian School, but as you may or may not know they closed that school down in 1980.

I really like it here at Sequoyah, it's my home away from home, and I'm sure it is for others as well. Others may not have homes and this is the only place they have.

I guess it's hard for people to understand how it is, if you saw how boarding school life was like, I'm sure you would change your mind. If you could be a student, then you would really know. It's not so hard to say how boarding school is like--it's like one big family--everyone knows everyone and we really try to help one another with problems or anything you can think of. I'm glad I have that secure feeling of knowing someone will be there when I need them.

Director of Indian Education
  Programs, BIA
Page 2
March 29, 1982

I have learned a lot here at Sequoyah, not only academically but emotionally. I've seen and helped people who came to Sequoyah with problems and they come to be a whole completely different person. Some are sent here with problems that their parents don't want to cope with, so they leave it to Sequoyah to do what they can.

I feel that I'm ready for the world, and I have Sequoyah to thank for that.

I know we need a better learning process, but there's another reason why students come to Sequoyah and that's because they can't handle public school. I feel and think that if Sequoyah should close down a lot of students would just quit school completely.

As I told you earlier, I was attending Fort Sill Indian School. I do know that some students never went back to school, they fought and fought to keep it open. No one listened.

I am very thankful for your patience to sit and read this letter. I hope you have a better picture of how it is and why it should stay open. Thank you.

Sincerely yours
Kellie Y. Merrick

Kellie Y. Merrick

Chick Hall
Sequoyah High School
Tahlequah, OK 74464
March 30, 1982

Director of Indian Education
Program, B.I.A.
Eighteeth and C Street, N.W.
Washington, D.C. 20240

Dear Sir:

I would like to ask you to keep Sequoyah open. Because there are a lot of students who would like to come here and finish high school.

I am a Sopohmore from Pine Ridge, South Dakota. This is my first year here and I sure like it. If it wasn't for this school where would I be. Last year I dropped out of school, because I didn't like it in the public school. Since I came here I would like to finish school and I sure hope I graduate here.

There are a lot of students who have come here from all over the United States. I'm sure they would come back here next year.

Maybe years from now students who have come here will send their kids here to finish school. A lot of students' parents came to school here and finished.

Thank you for your time to read this letter. I sure hope you make a decision to leave this school open for a long time.

Sincerely,

Cheryl Goodplume

Cheryl Goodplume
Student at Sequoyah High School

Sequoyah High School
Creek Hall
Tahlequah, OK 74464
March 29, 1982

Director of Indian
Education Programs, BIA
Eighteenth and C Streets, NW
Washington, D.C. 20240

Dear Sir

I hope you don't close this school down because it will hurt a lot of us students at Sequoyah. We came here for two reasons and they are to learn about our people and most importantly of all we came here to get an education.

Some of us came here to get a degree in some kind of work we can learn to do real well. I am a sophomore so far this school has been treating me good and I think it is doing a lot of good for other students too.

I am here because my parents sent me so I can get an education. I though it was going to be bad, so when I first got here I was a little scared but I met some of my old friends then I met their friends then I met more people and I really got to know this school and I really like this school.

So please leave this school open so that other students can make new friends here at Sequoyah, and get an education at Sequoyah.

Sincerely yours

Eastman James

Eastman James

Chick Hall
Sequoyah High School
Tahlequah, OK 74464
March 29, 1982

Director of Indian Education
Programs, BIA
Eighteenth and C Streets, N.W.
Washington, D.C. 20240

Dear Sir:

How come you want to close this school down? Man! This school is a good school to go to and you can meet a lot of different kinds of Indian and make a lot of new friends. How come you want to close the school down? Can't you wait until I finish my high school years, that's about two more years from now.

This school has a lot of nice teachers and a lot of nice students. I have a lot of cousins that go here and they want to finish here too, but they think you are going to close the school down so they are mad, we wish you would leave it open until they finish their years here. Well, I hope you will change your mind about this school.

Sincerely yours,

Hope Condon

Hope Condon

Sequoyah High School
Tahlequah Ok 74464
March 29, 1982

Director of Indian Education
Programs, BIA
Eighteenth and C Streets, NW
Washington, D.C. 20240

Dear Sir:

Many of us students would really apprecaite it if you would reconsider closing Sequoyah, we know that our attendance is low but we feel that Sequoyah has the best facilities anywhere for a boarding school. We have a nice football field track field, baseball field and softball field, plus we have a golf course right here on campus and the money from the golf course goes to the student council.

There is also a PHS Hospital near by that is available to students for treatment and medication if needed.

It seems that with all these facilities near by and on the Sequoyah High School campus it would be more reasonable to keep Sequoyah open.

Sincerely,

Carla Jo Exendine

Carla Jo Exendine
Senior

Sequoyah High School
Tahlequah, OK 74464
March 29, 1982

Directors of Indian Education
Programs, BIA
Eighteenth and C Streets, N.W.
Washington, D.C. 20240

Dear Sir

I'm asking you for your reconsideration on closing this school in 1984. This year I am a senior, but there are other students who will not graduate until 1985, they are the freshmen. And what do you think they would do if you close this school on them, do you think that they will go on to school? Perhaps, but probably not because I really don't think that they could last in a public school just to be critized by the white folks.

I used to go to school at Chilocco Indian School, until you came down and closed it on us when I was just a sophomore. Then I went to a public school, but couldn't handle the pressure they had against me, so I transferred up here to Sequoyah. I like it here and get along with everyone just fine...here people are friendly, not cause we're all Indians but cause we know how to get along with each other, you just don't know how hard it is for some of the students to travel all the way to Riverside just to go to school.

So, if you could (and I know you could) why don't you let it stay open. The reason for the closing is probably because the kitchen burned down, but no one knew who it was, and that's no reason at all. We eat in the recreation hall and it's a lot of fun in there because we get to watch TV while we eat.

Sequoyah has the best athletic facilities in Oklahoma, so think about it, and let us know what you think. Thank you.

Sincerely

Teresa E. Leemhuis

Creek Hall
Sequoyah High School
Tahlequah, OK 74464
March 29, 1982

Director of Indian Education
Program, BIA
Eighteenth and C Streets, N.W.
Washington, D.C. 20240

Dear Sir:

Why do I wish this school to stay open? Because it is a good school and everybody here is a lot better off than if they were in public school. I came from a public school and I think this school is a much nicer school.

Why did I come here? I came here to get away from the hassle the public school gave me but here everybody is easy to get along with and they don't criticize like the people or teachers did when I was going to a public school. I made new friends, and have learned things here that they did not teach in the public school.

(This school should not close because it is one reason, so many of our race are disappearing, cause each and everyone of us go different ways, we should try to stay together).

It would be hard for everyone if they would close the school, I think this school should never close cause everyone is just like a family here. Even though we are from different tribes it doesn't matter--everyone treats you as one of them.

Sincerely yours,

Charlie Lee Wildcat

Charlie Lee Wildcat

Sequoyah High School
Chickasaw Hall
Tahlequah, OK 74464

Director of Indian Education
Programs, BIA
Eighteenth and C streets, N.W.
Washington, D.C. 20240

Dear Sir:

I would like to say on my behalf that soon Sequoyah will be closing down. But, I wish it wouldn't. I would like to say if you close Sequoyah down a lot of kids will not be going to school. Even at home I wasn't going to school because I wasn't going to school here at Sequoyah.

Now, to me, it's a whole lot different. All my friends are here and some of my favorite teachers are here. They're a lot of Indian people (like myself) who would like to keep Sequoyah going for a long time. And you could help keep Sequoyah open. Sequoyah, to me, is a home away from home. Sequoyah has done a lot for me in the three years I've attended Sequoyah.

I don't really have much more to say, except think about what you're doing to "Sequoyah" and how it affects the Indian People.

Sincerely yours

Sherry Fields
Sherry Fields

Senator **Andrews**. I appreciate your bringing those statements along, and I appreciate them for making their comments available to the committee. It is most helpful.

Mr. **Patterson**. Also in these testimonies, on the question of are there alternatives, when you read what these students have to say, their responses to the question would be more like none to zero.

Senator **Andrews**. Of course, they would not really know about alternatives because there might be some boarding school 150 miles away that they do not know about.

Mr. **Patterson**. However, the students have a way of responding in their own way, just expressing their feelings. I think it is very well brought out in here as to how they feel and about what their alternatives are now.

Is there anything better around than the current boarding school education programs? My answer to that would be "No."

Senator **Andrews**. I appreciate that. Did anyone consult with you to ask your opinion before the decision was made?

Mr. **Patterson**. Not even to this good day.

Senator **Andrews**. Let me get back and go through this round robin again. Maybe I will ask a single question of each of you, and if any of the others have comments on that single question, speak up or it will be assumed that in essence you agree with the superintendent who answered the question.

First let me ask, are the presence of your schools having a positive effect? Do they have the support of the tribes and their school boards?

Mr. **Geboe**. Yes, they do, and I think that positive is a relative term. I would just like to briefly describe our population at Intermountain School. About 70 percent of our children at Intermountain School are dropouts from public schools. Sixty-three percent of the students that we have come from the Phoenix area, which is Arizona, Utah, and Nevada.

Senator **Andrews**. The plan as you understand it is to dump them back into this system from which they have dropped out.

Mr. **Geboe**. That is correct.

About 50 percent are 4 to 9 years below grade level when we accept them in the fall. About 37 percent are dropouts from BIA schools. About 53 percent require intensive residential guidance, which is a special program in which all schools are able to operate. There are certain criteria and documentation that is required. Last year the Phoenix area had 431 identified as IRG, and 430 of them were located at Intermountain area.

Also, approximately 75 percent come from social referrals from unstable family homes. About 51 percent we find speak the tribal language at home. About 12 percent of the population out of the 800 are eligible for Public Law 94–142. Of the 800 students, approximately 600 are eligible for title I services, and 500, which is an unduplicated count, will receive one or more title I services. Of the 800 students, over 100 students will be referred for the 142 services.

In light of that, we talk about the positive effect of the school. This year our graduation rate is 89 percent from the 12th grade.

Senator **Andrews**. Where do they go after graduation?

Mr. **Geboe**. About 54 percent of them will go into the work force.

Senator ANDREWS. What about the other 46 percent? Where do they go?

Mr. GEBOE. Thirty-four percent will go into college or technical school, and about 12 percent will go into the military, marriage, or we just do not know where they are. They are unaccounted.

Senator ANDREWS. So of this group that you get, who are primarily dropouts, you end up preparing fully a third of them to go on into higher education, which is quite a success rate. Do you track the ones who are dropouts? Is there the same number of dropouts who you have been able to rehabilitate who go on to college or vocational school?

Mr. GEBOE. Do you mean the students who are accepted from the dropout schools?

Senator ANDREWS. I think you said you accepted two-thirds of your children who are dropouts. Is it the other third who come in and end up going to college, or do you have an adequate representation?

Mr. GEBOE. I think there is an adequate representation from the total group. We find that it is pretty much across the board. One thing we find at Intermountain is that we offer 11 vocational programs. Of that we have about 30 percent of the student body who are enrolled in vocational programs, which amounts to about 233 students. These vocations are aimed at job entry level. Consequently, a lot of them are prepared to go to work when they graduate. Cosmetology students can register for State licensure. Nursing assistants qualify for CHR certification. Welding students are certified by the State and also by the apprentice council.

Also, as a sidelight, which I feel very good about, is that our Intermountain chess team won the high school chess championship in the State of Utah this year and beat all of the 4A, 2A, and 3A schools in the State of Utah. Last year we came in second. The year before that we won first.

So I think yes, there are some very positive effects in terms of the students and the types of programs. When we talk about what the positive effects are, I think you have to take a look at the type of population and you also have to take a look at the types of programs that are specifically geared to try and meet those needs. It is not easy when you talk about placement of students because one of the things that has to be taken into consideration is appropriate facilities to try to manage the type of program that is necessary for meeting the needs of the children.

Senator ANDREWS. Let me ask you to comment briefly on the other part of the question. Do your schools have the support of the tribes and local school boards?

Mr. GEBOE. Yes; we do. The school board is very dismayed that they have not been contacted in any way regarding the closure. They feel they have a responsibility in Public Law 95–561.

Also there was a meeting that the school board hosted on April 15 and 16 to which they invited the 18 tribes that had the largest enrollment at the school. Our school has students who represent about 95 to 100 different tribes. We have students from every State on this committee except Hawaii. Consequently, those 18 representatives came in, visited the school, visited the students, visited with the staff, reviewed the programs. It was unanimous that the school remain open because the school board wanted to have some consultation with the tribes as to what they should do. Should they allow the school to close or should they seek some alternatives? The decision at that time was to continue to operate the school.

Senator **Andrews**. Mr. Demmert, until very recently, the BIA has been saying the overwhelming majority of these boarding schools across the Nation have special social needs. Now for some reason or another the BIA has said that that statement is nonoperational. I guess that is the word to be used. The number has been given at 10 percent at the most. Do your students have special needs? Do they have a similar problem with the lack of success of public schools? How do you define these social needs?

Mr. **Demmert**. Can I defer that question for a little while and go back to the earlier question that you just asked?

Senator **Andrews**. Surely. I assumed you, if you wanted to be heard on the earlier question, you were going to speak or forever hold your peace.

Mr. **Demmert**. He is such a good speaker that I did not have a chance to break in.

I did want to respond to the earlier question first. In talking about the positive affect and the support of tribes, as I mentioned earlier, we do have the support of our school board and the tribes in Alaska almost 100 percent.

To go more quickly to the positive affects, I would just like to make a statement regarding the Indian leadership we have in the State. As I talk with Alaska's current Native and Indian leaders, many of them talk about, as they travel through the State, the fact that all of the leadership at this time came from a boarding school. Of course, I am speaking in generalities, but the overwhelming majority of the native leadership are boarding school products. It has not been that long that we have been a State.

As I mentioned earlier, we have struggled with educational delivery systems before we were a State and even now in the early years of being a State. It has not been that long since Alaskan Indians and Natives could not attend the public schools because they were Alaskan Indians or Natives. It has not been that long ago. Even in our own original areas and our towns when public schools came in, some other place was made available to the Alaskan Native and Indian population.

So the personal belief that I have is that Alaska, as a State, has moved quite rapidly with some of their delivery plans, and I think we are moving a little too rapidly in a closure of something that is working. The boarding school concept in Alaska has been something that has been effective. It has worked. It has produced leadership. It has produced people who are able to move into the community and become productive members of that community.

Senator **Andrews**. Some of the key questions this committee is trying to determine are whether this role in maturity and training, in all of the rest of these students, would have occurred if they had been in some area other than the area of these Indian boarding schools? I should have said if they had been in some other environment than the environment of these Indian boarding schools, could they have done as well if they had stayed in the public schools close to the reservation?

Mr. **Demmert**. In Alaska there are only two reservations, and we are not near one. There are no reservations for the Eskimo, the Aleut, the Southeast Indians.

As I mentioned earlier and to get to your question I guess I would have to say on a personal opinion; no. We would not have progressed to the point that we are now. No. 1, we would have lacked greatly from educational opportunities because of the fact that most of us came from isolated communities. No. 2, as I mentioned, we were not allowed to attend public schools in the not too distant past.

Senator **Andrews**. The major reason for the establishment of this kind of Indian boarding school had been that: No. 1, you provided an environment for them that is better than their home environment. Many of them come from problem homes. No. 2, by consolidating the education, you provide a better type of teacher and a better type of educational opportunity much as we have found in rural States like my own of North Dakota. Where busing is kind of a bad word in certain circles down here, we have been busing for years because you have to bus long distances to get the critical number of students together with which you can have a good school.

You are saying that to get enough students together to provide them the type of teachers and facilities, you have to bring them together in the form of an Indian boarding school or you lose a good deal of what they otherwise would have in the way of educational opportunities.

Mr. **Demmert**. I agree with that, and I think that is what the boarding schools have done.

Senator **Andrews**. You can see no alternative to that concept at an equal or lower cost at this time?

Mr. **Demmert**. Not at this time, I do not.

Senator **Andrews**. What do you foresee in the future? What can we put together in the future that works better?

Mr. **Demmert**. I do not know if you can consolidate in Alaska. You cannot consolidate in Alaska. There will always be small schools until the population becomes such that you will have larger schools.

Just recently, I attended a hearing of the State legislature in Alaska. It was the senate Hess Committee of health education and social services. Our commissioner of education for the State did testify. He was not a friend of Mount Edgecumbe at that particular hearing. However, he did make the statement that Alaska would probably have a need for a boarding school. We cannot consolidate in Alaska.

Senator **Andrews**. Mr. Belkham, what kind of reaction do you have to the conversation that we just had?

Mr. **Belkham**. It is pretty much along the same line that both gentlemen mentioned on that particular question.

Senator **Andrews**. Then let us run another thing by you. In this statement that, until recently, the BIA has been saying that the overwhelming need for the majority of the students is that they have to resolve their special social problems. Now, all of a sudden, they are saying only 10 percent of these students have social problems that need the unique care and treatment that they can get in a boarding school complex. What has come about to change that estimate at BIA?

Mr. **Belkham**. I could not answer that question, Mr. Chairman. At Flandreau, that is not the case. We have 30 percent who come from families which have an alcohol-related problem. Fifty percent come from one-parent families. Forty percent come from families who have had trouble providing for their children. Nineteen percent of the students do not live with either parent.

Other reasons listed along the same line are economy, inability to get along with non-Indian students, isolation, and attendance in the school from which they came to us. In addition, trouble with the law is listed. They have some kind of trouble with the law at the local level.

Senator ANDREWS. In other words, you have been able to resolve these problems in the majority of cases.

Mr. BELKHAM. The majority of them; yes, sir.

Senator ANDREWS. Have they had a history of dropping out of public schools?

Mr. BELKHAM. Yes.

Senator ANDREWS. Roughly, what percent of the students that you get had been dropouts in the school they came from?

Mr. BELKHAM. Eighty-three percent.

Senator ANDREWS. That gets up to a few. What percent of these students do you graduate?

Mr. BELKHAM. We will graduate about three-fourths of the 83 percent that we get.

Senator ANDREWS. Will they go on to school?

Mr. BELKHAM. Last year, 1980–81, we had 47 percent who started in a 4-year college or a 2-year vocational school. Twelve percent entered the Armed Forces. Nineteen percent went into construction.

Senator ANDREWS. Of those who started in a 4-year college course, how many finished that 4-year course?

Mr. BELKHAM. The figure I gave you was just 1980–81. So they would just be in their first year.

Senator ANDREWS. You must have the figures from before that.

Mr. BELKHAM. No, we do not have them. We are looking into that. It is very difficult. At one time or another, we have had students from every State.

Senator ANDREWS. Do you have, as they say in North Dakota, any outhouse guess as to what number of these students who enroll in a college complete that college?

Mr. BELKHAM. I would guess somewhere between 40 and 50 percent complete it.

Senator ANDREWS. So actually you are taking 80-plus percent dropouts and giving them the training and the desire and really an ability to cope to the point where one-half of them who enter school graduate.

Mr. BELKHAM. That is approximately right. Of course, I think the reasons that we are able to be successful is that we also meet their home living needs and their social needs while they are on campus.

Senator ANDREWS. Do you have any further comments on that line of questioning?

Mr. BELKHAM. No.

Mr. PATTERSON. On the subject of positive effects, I just have a short statement. I attended a Sequoyah High School alumni banquet a few evenings ago. There were approximately 300 people there. They were former staff members of Sequoyah High School, and almost 100 percent of those in attendance were also former graduates of Sequoyah High School. This is just an example of the kind of people that the school is putting out.

To your question, is the school supported by tribes? Most definitely, yes. We have a five-member board, and each board member is represented by his tribe. In eastern Oklahoma, we have five major tribes. Each Indian tribe has its representative serving as a member of the board of education. So the tribe is very well represented.

On the question of social needs, I am going to place my percentage higher than anyone else has. I am going to say almost 100 percent, using my definition of what a social need is. To me, a social need is anything that is involved in the child's home, environment, and community that keeps him from getting the kind of education that he needs. This would include anything from broken homes, no parents in the home, one parent in the home, parents who are involved in drug abuse and even child abuse, and any of those things. Even if there is one, then that creates a social need.

I think we have done a good job at our school in meeting social needs, and we believe our students are pleased with it.

Mr. **Demmert.** I would like to comment on social needs now.

Senator **Andrews.** Go ahead. I thought we would get you warmed up.

Mr. **Demmert.** In the strict definition of the social referral that we use in bringing students into the boarding school under that particular category, our percentage would be quite a bit lower. However, I agree pretty much with Mr. Patterson on his definition of need.

We have approximately 18 percent at Mount Edgecumbe who have come to us through referral of either the State social services in the State of Alaska or the Bureau of Indian Affairs social services office. Once in a while, we get a straight referral from a local school that indicates there is a definite social need because of a broken home or a disrupted family life that makes it impossible for the student to complete whatever grade he is in at that particular time.

In Alaska, as well—and the reason I agree with Mr. Patterson's remarks with regard to social needs—in many of the letters we get from parents who write to us and say they want their child to come to Mount Edgecumbe, one of the reasons they give quite often is that they want to expand the social world of their child. In the Native communities of Alaska, we have many corporations abounding, millions of dollars that they must manage, and the parents of these students want them to be able to move in and take a responsible role in the management of Native affairs in Alaska.

Therefore, when you have a one-teacher high school or possibly a one-teacher school that teaches not only high school subjects but elementary subjects and maybe the only other children in the school are brothers and sisters or cousins, the parents find a great need to expand the social world and the social learning and development of those individual students that they have come to Mount Edgecumbe.

So our's would be quite higher than what we have actually documented on the admissions papers.

Mr. **Geboe.** Senator, at Intermountain School we follow the criteria that is set out in the Bureau of Indian Affairs manual in which it states the enrollment criteria for off-reservation boarding schools and also identifies the criteria both for education and social. By following this, approximately 87 percent of our students fall into the education criteria, and about 77 percent fall into the social criteria. So a lot of our students are in both groups.

Senator **Andrews**. We are a little bit like a schoolroom, too. When the bell rings, it is not necessarily that we have to pass classes, but we have to pass back to the Capitol and vote. Because you have come a long way and because we want to make sure we get as complete a record as we can, I am going to have one of our staff attorneys continue the questioning, and you can continue to make the record so we do not lose the time we need to make a good record. I appreciate so much your coming.

Ms. **Wrenn** [acting chairman]. We will continue. Someone may start, and everyone else may join in.

What actions relating to preparing to close your schools have been taken by the Bureau or recommended by the Bureau? That means personnel-related actions and any actions which would affect grades or services offered.

Mr. **Belkham**. At this time, none at Flandreau because we are 2 years away from the proposed closure. So there has been no action.

Ms. **Wrenn**. There was no general RIF notice sent to Flandreau?

Mr. **Belkham**. No; there was a general RIF notice as I mentioned earlier in regard to the conversion of employees A to F, but this did not pertain to the proposed closure. This pertained to the lack of work during the summertime. It has been a trend over the years to get positions A to F in order to help with the budget. The main reason for the action was lack of work.

Ms. **Wrenn**. Mr. Patterson.

Mr. **Patterson**. With relation to the Sequoyah High School, we have conducted no closure actions to this date in relation to personnel or our equipment inventory. We have had a reduction in force, but that was due to budget limitations and not the result of closure notices.

About the only affect we have had because of the future closure, which is 2 full school years away, is a lowering of staff morale.

Ms. **Wrenn**. I would like to get that in since you all were informed at one point that your schools are going to be closed. Has this information negatively affected your programs and staff and student morale?

Mr. **Belkham**. It definitely had an affect on the morale of the staff and the students both as soon as the proposed closure was talked about. We have lost, I feel, a few of our personnel because of the proposed closure.

Mr. **Geboe**. At Intermountain School we were notified of enrollment restrictions. We were first told not to enroll freshman students or new students. Then at the end of the week we were notified, after we had been directed to notify all of the tribes, that we could accept new students but no new freshmen.

In October 1981, we had an employment ceiling of 260 positions for 800 students. When they restricted the freshmen class, saying we would not be able to enroll freshmen, we began to develop a staffing chart for 166 positions reducing from 260 down to 166 for 600 students.

Then we were notified that we would have to limit our student enrollment to 400 and have now reduced that to 123 positions, which is resulting in the abolishment of 137 positions of which 90 are occupied.

There is also the additional problem that we are facing which is—it is very simplistic to say that we will all of a sudden convert from a 4-year high school to a 3-year high school in a very short time. This reorganization which we are having to go through has a direct effect on school curriculum in terms of the required and elective classes; the athletic programs and schedules because the reduction in enrollment also has a direct effect on at what level we compete and in what we can compete. Also, when you reduce from an 800-student program down to 400-student program, it has a direct effect on the kind of vocational programs and support programs that you can offer and also the sepcial programs.

Overall it has been just absolutely devastating to the staff and also to the students. We are at the point now where I tell staff if they want to leave at any time during the school year please give me 2 weeks' notice so that I can try and get someone to cover for them for a while.

The students have been holding up very well. I guess young people are always very optimistic about a lot of things in the face of adversity. However, it is very difficult to keep the staff up.

Ms. **Wrenn**. Do you have anything to add, Mr. Demmert?

Mr. **Demmert**. We have just recently implemented a reduction in force at Mount Edgecumbe. Eighteen positions occupied were released. Their last day of work is June 5 of this fiscal year.

There has been some planning that has taken place regarding the closure of Mount Edgecumbe. Up until, or just before Christmas of this year, we thought we were going to close after this year. So we had moved quite far along in our closure plans with the other Federal agencies on the island as well. So we have some tentative planning there.

Ms. **Wrenn**. We will start this time with Mr. Patterson. I would like to ask you now, how is your student services capacity determined—when and by whom—and does it reflect the modern educational practices on students versus space requirements? Do you have any buildings not in current use?

Mr. **Patterson**. The capacity was established by Albuquerque. That is the last official notice I have. It is really outdated because since then we had some dormitories razed, destroyed, and demolished. Our capacity is way down from what we had been listed. That is our capacity right now would be 128 times 2, or 256. That is our capacity right now.

We have a dormitory that is almost finished. It will accommodate an additional 100.

Ms. **Wrenn**. They are building you a new dorm and are closing you?

Mr. **Patterson**. Yes.

Ms. **Wrenn**. Thank you.

Mr. **Patterson**. It is an extensive modification. It is not a new dorm.

Ms. **Wrenn**. But they are continuing to modernize it?

Mr. **Patterson**. Yes; the renovation is scheduled to be completed in probably the next 30 to 60 days.

Our capacity needs to be updated because it is probably today 256 and by fall 356 would be the maximum.

Mr. **Demmert**. At Mount Edgecumbe, our facility management office in the area has designated our current dormitory capacity at 480. We have a local capacity of 410 in our dormitories.

Mr. **Geboe**. The enrollment for Intermountain School was set by an Appropriation Act in 1975 at 800. The Phoenix area office has concurred in the 800 enrollment ceiling.

When one talks about capacity, you are talking about the number of square feet that is available for each individual student. Our capacity, based on current standards, would be 1,200 students, although we are limited to 800 students.

I have seen figures where the Intermountain School has been indicated that the design capacity is 2,363 students. Frankly, I find that impossible. I think the Navajo program, when Intermountain was operating as a Navajo school, and they dealt with elementary age children, that the high enrollment was 2,350 students, but this involved triple bunk beds in barracks-style settings. I do not think it would be possible to even consider that as a realistic figure.

Without the restriction of 1,200 and with the restriction of 800 students, that is our enrollment right now.

Ms. **Wrenn**. I have to interrupt for just a moment. Is Mr. Willard Yellow Bird here?

[No response.]

Mr. **Belkham**. Ours is also outdated. Albuquerque did ours. They listed us as 1,113. We have room for 550. It is a maximum of 580. I do not know when this report was done, but it was turned in to the Bureau as 1,113. Again, we have room for 550. We can stretch it to 580. It is outdated obviously in every respect.

Ms. **Wrenn**. We have been getting, at least for Intermountain and Mount Edgecumbe, some figures which appear to the committee and the committee staff to be a bit inflated. These revolve around the operation and the maintenance of the school. Could you briefly specifically outline your operation and maintenance situation as to what you think the figures are?

Mr. **Geboe**. One of the things that is talked about is that the school is expensive to operate. The Intermountain campus is made up of several tenants. The Intermountain is one of eight tenants that are located on the campus. The total square footage is 1.5 million square feet that we currently have at the Intermountain School or on the campus facility.

We use approximately 54 percent of that square footage. In order to operate the school—for operations and maintenance—it costs us approximately $1.61 per square foot. That is for all 1.5 million square feet. The Office of Technical Assistance and Training is one of the tenants on campus. We charge them $80,000 a year, which is a part of the 1.5 million.

I guess what they are saying in some respects is that the amount of money that is used for operation and maintenance of all the 1.5 million square feet goes to the school. It does not. We only use a part of it. We have some units of law enforcement divisions from the Bureau of Indian Affairs. We also have the film library located there. We have the police academy that is located there. So there are a lot of different users. It gives a very distorted figure as to what it actually costs for the maintenance and operation of the school.

We also find that out of the 1.5 million square feet we have about 76,000 square feet as employee housing. This housing generates about $152,000 in rent, but we do not get any of that money. We can put that back into the expense for employee housing. Consequently, the amount of money we receive bears the expense of about $25,000 for utilities and nearly $4,000 for furnishings and about $80,000 a year for maintenance.

I think they need to take a little closer look if they are talking about the cost of the school to operate. One of the things we find is that for our facility, as large as it is, it runs about $1.61 a square foot. We find there are some areas where the average cost is around $2.83 a square foot. We have also found that there are some agencies that has a little over $4 a square foot. That figure is a fairly accurate figure. I think you cannot take the formula money that we generate through our involvements and then add the $5 million to the whole installation and say that is what it costs to run the school because that is not really true. That is very misleading.

It is very difficult for us because I feel it inflates the average per pupil cost.

Ms. **Wrenn**. Go ahead, Mr. Demmert.

Mr. **Demmert**. You talked about the fact that the O&M budget seemed to be inflated. In starting out to explain this, I guess that I should explain that the Bureau of Indian Affairs at Mount Edgecumbe is the lead agency at Mount Edgecumbe for a national common services agreement. We have the Public Health Service, GSA, and the Coast Guard. We have the Post Office and other Federal agencies on our island as well. As a result, we are responsible for maintaining sewers, water, and water lines, and all major utilities as well as distributing electrical power and operating the central heating plant.

I think that is probably the main reason that our budget at O&M is so high. It is at $3.5 million for this year. Until 1972, there was not a bridge between Mount Edgecumbe and the main community. We were definitely a Federal enclave at that time. We provided our own fire department, which we still have. We are in the process of moving out of this. We had to provide everything. We were self-sufficient then. As you know, when everything is established it does take time to begin to bear down on those expenses that maybe are not needed now.

Other than that, everything in Alaska is costly. Utilities are very costly. Salaries are very high, especially the wage scale. Being a lead agency, we have quite a few employees. We have 41 in our own department since the RIF. A large part of that budget does go to salaries.

Mr. **Geboe**. In fiscal year 1979, there was a study conducted at Intermountain School regarding all of the facilities; all 1.5 milion square feet. The consulting firm that did the study in 1979 came up with a total, saying that at that time to bring the school up to code it would cost $10,843,441. We found out later that a lot of these consulting firms, when they do that kind of a study, have to make sure they cover every possible eventuality. If there is something that happens that they do not have in their report, they can possibly be held liable for anything that happens.

I had the State of Utah come up because they were saying we were not up to code in the State of Utah. I had the State of Utah come up from their facility management and go through the $10 million. We found that, No. 1, they were saying we needed additional sheetrock in all of the dormitory buildings at a cost of $1,040,000. The State of Utah said that was not required because of the type of sprinkling system we have.

We also found that there was $3.7 million of the $10 million that is for site upgrade such as lawn resurfacing and this type of thing.

We also found that there is $216,000 in repairs which were not really needed for the quarters. We also found that there was work on certain buildings that had not been used. It was about $1 million.

We kind of went through the whole thing, I guess. There are two categories that I look at as being questionable or Mickey House because you are not in the code if your bannisters are not a certain length. To get into the code, you lengthen the bannisters and then you find you cannot open the door. Then you figure out what it costs to tear out the wall and move the wall and put it back in so the door can be opened.

We sorted those kinds of things out. We found of the $10.8 million about $2.3 million would fall into the general category of health and safety. We feel that this $2.3 million could have been taken care of because Intermountain has not received any major repair or improvement funds for the last 5 fiscal years.

Ms. Wrenn. Thank you.

Mr. Demmert. The funds have been nonexistent for any major improvement for quite a number of years. I would also like to point out that we are not the lead agency. However, if we were we could cut our own budget by 52 percent.

Ms. Wrenn. Do either of you gentlemen have anything to add?

Mr. Belkham. I have one thing to add in that area. To bring us up to standard, they estimated $4 million. In looking at that, $2 million would bring us up to standard in regard to health and safety factors. Some of the other work that has been recommended has been completed; some of it is not needed. So we also have an inflated figure there in the $4 million which should actually be $2 million.

Ms. Wrenn. Mr. Patterson, do you have anything to add?

Mr. Patterson. No, I do not believe I have any comments in this respect. All of the money that comes on campus is used directly for education in one way or another.

Ms. Wrenn. I have just one more question. You have touched on it before. This committee has held oversight hearings on the closure of three boarding schools that are set to close next week. One is in Oklahoma. We have Wahpeton in North Dakota, and a school in Albuquerque. This ties into things we have heard there.

We touched on the fact that you had taken staff cuts since 1980 and 1981 school year for one reason or another. Have these affected your programs; that is, either the social programs or the educational programs available to children? Second, has it affected the number of children you have been able to educate? You may have extra space in the dorm, but you have a teacher—are you lowering your enrollment voluntarily because of the teacher-student ratio?

Mr. **Belkham**. We have not actually lowered our enrollment. Due to that we have been hurt by the lack of employees especially in the home living area because we have more turnover there than in the lower grade jobs. We have had several vacant positions there. There has actually been no dollars saved because in order to get adequate coverage and meet the needs of our students we have had to authorize overtime to make up for the shortage. In the end the quality of the program we feel has been hurt because you do not get the same mileage out of people when you work them 10 or 12 hours a day as you do on an 8-hour-a-day basis.

Mr. **Patterson**. I think at our school we have been affected by closures of other schools. There are general comments going around that it will finally get to us. We have had staff that have already bailed out and are looking for other places to bail out. The remaining teachers are, in their own silent way, I think making decisions as to what they might do in the next couple of years. That being the mental situation with the staff, it has the deleterious effect on the entire educational program.

Ms. **Wrenn**. Thank you.

Do you have any comments?

Mr. **Geboe**. There have been a couple of things that the Intermountain School has been dealing with. One is that prior to the passing of 95–561 and the implementation of the funding formula, we had taken a 30-percent reduction in order to get into line with the funding formula. This is so that we are currently 100 percent on the funding formula.

This necessitated a reduction in the number of people. Yet we have been able to maintain our enrollment and also the programs. Last year at the beginning of the school year, we had 120 students on the waiting list. This year we had 150 on the waiting list and 100 on the waiting list next semester that we cannot accept.

I think one of the things that is very difficult to deal with when you operate a school is the hiring and freezes. This is when you are not able to replace the key positions. If you have a math teacher who dies or moves away, you have to reorganize. You have to reorganize student schedules affected by the classes the teacher teaches. Consequently, in January, when we started the second semester, we had to completely reorganize everything. We had to close some dorms and shift dorms around and shift people around and put them into the kitchen. The whole idea of having to pay overtime where we do not have wage-grade people in the kitchen and where we have them on a 6-day schedule becomes extremely expensive. They do not want to work those kinds of hours. You just burn them out. There have been some really negative effects.

Ms. **Wrenn**. Thank you.

Mr. **Demmert**. It has negatively affected our programs. As I mentioned earlier, we are kind of going on 2 years. Since then, the teacher turnover has not been a factor at Mount Edgecumbe. It is a nice community. It has been a good school. We have had good stability in our teaching ranks and the employee ranks.

However, since the talk of closure, we have had teachers leave at midyear and transfer to other places. You know what happens in a small community of 8,000 when a teacher of English or mathematics leaves in November or in February. You just do not go out and pick up another teacher very quickly to fill the classroom and begin teaching the students. That has affected us negatively. They leave to get more secure jobs.

The other thing that has affected us is the doubling-up of teachers where they are teaching outside subjects of their normal expertise or the expertise in which they have been trained. In the coaching area, a doubling-up has taken place there as well and in the extracurricular activities we provided for the students.

We feel that has been a factor that the whole staff has had to deal with and wrestle with regarding the morale problem because we feel the reason the students come to Mount Edgecumbe is to take advantage of the educational opportunities that a larger school can offer. Namely,. when you have a teacher of mathematics, he is a trained teacher of mathematics, and he has not been trained in physical education. However, when we have to double up then, we have to assign teachers to teach classes that they may not be totally trained for. We can live with that on a temporary basis, but on a sustained basis, definitely the education program at Mount Edgecumbe would suffer greatly and the students would be the losers.

Senator **DeConcini** (acting chairman). I want to express appreciation for your being as candid as I am told you have been here today. We realize that takes a certain amount of courage, and we sincerely hope that in the event there is any repercussion for your candidness, we believe it is our duty as well and we would like to know about it. We are sure that the agency will not do anything like that, but every once in a while people get a little bit uptight; that is, sometimes when the truth is brought before us. We hope you will feel very comfortable in bringing to our attention in the event there are any repercussions because of your testimony today and for the detailed explanations you have given us.

We will now hear from the next panel. Our next witnesses will be for questions and answers only. They are the regional education directors for the Bureau of Indian Affairs. We have Betty Walker from South Dakota. We have Wallace Allen and Peter Soto of Phoenix, and Mr. Van Peters of Oregon.

Identify yourself so we will know who you are.

Mr. **Holman.** I am Larry Holman from Gallup, N. Mex.

Mr. **Soto.** I am Peter Soto. provisional regional director.

Mr. **Allen.** I am substituting for Harry Eagle Bull.

Mr. **Peters.** I am Van Peters. I am the Northwest provisional assistant director.

Mrs. **Walker.** I am Betty Walker.

Senator **DeConcini.** We have a series of questions that we would like to go over with you. Do any of you want to make any opening statements? I understand you were invited here to answer our questions. If you have any statement, I will be glad to take it at this time.

First, we would like to address some regional educational questions with which you might be able to assist us. The first question is, how much input has your particular area had into the formulation of the BIA reorganization in the creation of a new Bureau of Regional Education Office? Can we start with Mr. Holman?

PANEL CONSISTING OF LARRY HOLMAN, PETER SOTO, WALLACE ALLEN, VAN PETERS, AND BETTY WALKER, PROVISIONAL EDUCATION DIRECTORS, BUREAU OF INDIAN AFFAIRS

Mr. HOLMAN. I have had quite a bit of input. The original plan did not call for a regional office for the Navajos, but due to the tribal council's wishes, our policy people in Washington decided to establish a regional office. Since that point, I have been involved, from nothing on paper to now, where we do have a regional office established on paper. I had the total responsibility to establish that office.

Senator DECONCINI. Mr. Soto.

Mr. SOTO. At the very beginning when we were brought in to Washington, we had a very integral part in the development. We selected our people for the task force, and we were given various tasks to develop. We have been at that stage ever since.

Senator DECONCINI. Mr. Allen.

Mr. ALLEN. Yes, sir, at this point, the input into the development of the new region has been significant in my case. They have allowed us to deal with the problems at this point and make presentations. We have not had any feedback at this point, but we do have it on paper.

Senator DECONCINI. Mr. Peters.

Mr. PETERS. In the Northwest region, we have had, I would say, complete involvement in the implementation of our proposed plan. We were given some general guidelines within which to work, and from thereon, we in the Northwest have developed a plant to meet the needs of our Northwest region.

Senator DECONCINI. Ms. Walker.

Ms. WALKER. I was appointed as a provisional director a little bit later, after most of my colleagues were appointed. However, since the time of my appointment as provisional director for North Central and Northeastern regions, I have had significant opportunity for input and the implementation on paper of plans for the regional office as well as the task force members who have been working with me there.

Senator DECONCINI. Thank you.

When do you anticipate or when have you been told that the new regional education offices will begin to function, and have any of you already begun your duties? I take it some of you have. Have you been relocated or have any of your staffs been relocated yet?

We will start with you, Mr. Holman.

Mr. HOLMAN. The target date that I currently have for implementation is on or about August 1.

No, sir, there has not been any staff relocated because this is a new office.

Senator DECONCINI. Have you taken the position?

Mr. HOLMAN. No, sir, I am in a provisional title.

Senator DECONCINI. Is that the status you are in now?

Mr. HOLMAN. That is correct.

Senator DECONCINI. Mr. Soto.

Mr. SOTO. Senator, we are all under provisional title at this point.

Senator DECONCINI. What does that mean?

Mr. SOTO. In a sense, acting.

Senator DECONCINI. Does that give you an increase in salary or anything?

Mr. SOTO. No, sir.

Senator DECONCINI. Title only?

Mr. SOTO. Yes, sir.

Senator DECONCINI. Have any people been moved yet to begin their duties, other than yourself?

Mr. SOTO. No, sir. We have been talking about August 1 at this point. However, we understand that various positions and other things have not been signed yet and there has been no placement at this time.

Senator DECONCINI. Is that true with everyone else?

Ms. WALKER. Yes.

Mr. PETERS. Yes.

Mr. HOLMAN. Yes.

Mr. ALLEN. Yes.

Senator DECONCINI. Are you familiar with any administrative actions prior to establishing the new offices other than appointing you as the acting director or provisional director? Are you aware of any other administrative action?

Mr. HOLMAN. Yes, sir. I am aware that the departmental manual has been redrafted to reflect this reorganization. That was done preparatory to establishing these provisional regional directors in the field.

Senator DECONCINI. Does anyone else have anything in addition to that, administratively?

[No response.]

Senator DECONCINI. Have any of you seen that manual or parts of it?

Mr. SOTO. I think all of us have seen the draft at this point.

Senator DECONCINI. In the draft, does it clarify who you are going to be reporting to in the central office? Do you remember who it is?

Mr. SOTO. Yes, it is to the Director.

Senator DECONCINI. To the Director?

Mr. SOTO. Yes.

Mr. HOLMAN. Yes.

Senator DECONCINI. To your recollection, does it set forth the authority that will be given to each of you as the regional director?

Mr. SOTO. Yes, it does.

Senator DECONCINI. To your recollection, since you have a copy of it, can you spell out any of those particular authorities?

Ms. WALKER. From recollection, perhaps I could do this. Some of the authorities that have been discussed, and we just completed discussing over the last day or so that we have been together, relate to some of the central office functions that are currently being handled by the central office such as approval for certain categorical programs like title I and things of that nature will be given to the regional offices. Also areas in student count, the auditing functions that are now central office functions will be delegated to the regional offices.

Perhaps my colleagues can help me with more.

Mr. SOTO. Senator, we have the delegation of operation of all education functions to agencies and field offices which serve constituents within the jurisdictional boundaries of that agency. Then we have the services in support to agency schools and field offices which would be enhanced by having program direction and technical services closer at hand at the regional office. What we are saying there is in terms of the transfer functions from the Washington level to the regional level and on down to the agencies.

Senator DECONCINI. Does anyone else have anything to add on that subject?

It is my observation that the letter of the law and certainly the spirit of the Federal Indian Law in 1970 had been local control and decentralization, and the control has been vested in the local Indian school boards and the contracts and the schools.

How will your presence improve local control? How much involvement will you have with the local policy personnel and financing? Do any of you care to answer how you will do that?

Ms. WALKER. The regional office, because of the concepts currently being proposed, deals with the redelegation of authorities and extension, if you will, from central office to the regional offices.

In terms of direct involvement with local control, the local control will be maintained by those respective schools and the agencies. This is where it is now vested. This is instead of adding on another layer of bureaucracy and more decentralization of authorities vested within the agencies and local prerogatives.

Mr. PETERS. In the northwest region, we are unique in that all education programs there are contracted by the tribes. We only have one Bureau-operated school up there in the northwest region. We have other tribal schools. They have their own local school boards.

In areas of higher education, a high percentage of those are contracted by the tribes. We provide technical assistance to them and contract monitoring on the contracts. We will be providing oversight responsibilities for those contracts.

Mr. ALLEN. At this time, the southern region, from which I am, at least helping to propose and develop, is one of strictly a technical nature in the sense that we are going to provide the technical services that are requested from us. Not only that, we are asking that the tribes deal with the programs that the Bureau normally handled.

The only ones that we will probably be dealing with are those that they want us to deal with. I think they would rather have our office handle that portion of their higher education funds.

Senator DECONCINI. You will not be involved locally unless they ask you to?

Mr. ALLEN. No, sir. We visit with them on the program options that they have, and they make it known to us which direction. They have that at their discretion. So we try to confer with them and provide the technical assistance.

Senator DECONCINI. Will the authority be with you to approve local actions for established standards?

Mr. ALLEN. I am not sure about established standards, sir. I think maybe that would come out of policy.

Senator DECONCINI. That policy would rest with your office as a regional office?

Mr. ALLEN. I am sure that some would. We have not had that defined as yet.

Senator DECONCINI. What about Arizona?

Mr. Soto. In Arizona we are rather unique for the western region. We encompass the Albuquerque area as well. In other words, the State of New Mexico. In terms of the establishment of field offices and a regional office, we were all charged with the responsibility of providing services to all tribes within the region. So that concept has developed a number of field offices and satellite offices so that we can accommodate and meet the needs of the tribes that do not have an agency as such.

We have agencies in Arizona and New Mexico that we will provide services to. In terms of the delegation of authority and the levels of authority, that would be commensurate with the appropriate agency or the field office in terms of decisions.

Senator DeConcini. Mr. Holman, do you have anything to add?

Mr. Holman. No, sir, I have nothing to add for now.

Senator DeConcini. Can you discuss briefly what exact liaison has been discussed with the organizations between the education of the regional office and the proposed regional centers for the balance of the Bureau? Is there any procedure? Can anyone comment on that?

Ms. Walker. Yes, we certainly can. Within the north-central and northeastern region, we have been working with the northeastern as well as the north-central balance of the Bureau side. This is in terms of providing support services. Some very informal discussions were at the beginning. Now we are talking more in planning for specific kinds of administrative support services. So the communication between the administrative support side with the education has been quite satisfactory.

Senator DeConcini. Thank you.

Mr. Peters. In the northwest region, we work very closely with our counterparts over there for administrative support services. We moved into the same offices with them, and we utilize some of their staff in developing our proposal. They utilize some of our staff in developing their proposal. It is a working relationship with them.

Senator DeConcini. Does anyone else want to add anything?

Mr. Soto. In addition to what was mentioned, there were certain activities and functions that we really need to have with the western side. That is in terms of the ADP and the MIS and the various services and how they should be provided, and so forth. This is in terms of the accountability of furniture and things of that nature. We do have to have that relationship so that we can maintain the flow in terms of the workload, and so forth.

Senator DeConcini. Thank you.

You are all experienced with BIA for a number of years. You also are aware of the past problems with obtaining support services such as personnel procurement, contract maintenance, and social services. Will the new BIA organization remedy these problems in your opinion? Will you answer that, Mr. Holman?

Mr. Holman. At present they seem to be improving in our situation on the Navajo due to the fact that we have this position called provisional regional director. The current administrative support programs look at that position as being on an equal plane as to their own area director type position.

From my standpoint, right now we are getting a quicker turnaround and response to our administrative support problems.

Mr. Soto. The education reform we have had with Public Law 95-561 is this. In itself, it created some change. There are some significant changes at this time in our region in terms of the turnaround time. Also the contracting of educational employees has changed significantly. It appears that there is a change at this point.

Senator DeConcini. What is the turnaround time now, compared with what it used to be?

Mr. Soto. The time?

Senator DeConcini. Can you give me an example?

Mr. Soto. It varies.

Senator DeConcini. Would you say it has substantially improved? Is it 10 or 50 percent?

Mr. Soto. I would say around 30 percent at this point.

Senator DeConcini. Is that on a level basis? Do you consider that most of the turnaround has substantially improved?

Mr. Soto. Yes, it certainly has.

Senator DeConcini. Does anyone else care to respond regarding this?

Mr. Allen. We have had a different situation in the past. I believe the new reorganization will bring to us a better type of service in the areas of personnel procurement. I address myself in this way. From our side for many years, the administrative services and personnel and procurement and the contracting were based in an area about 200 miles away from us; one system serving two systems. At this time, with the consolidation, it should bring into focus that we are one system. I think we will get the turnaround time we need for hiring people.

Not only that, I believe this will be true of contracting. We have had two contracting agencies. I think definitely there will be some improvement in services there. Again that is pure conjecture at this time.

Senator DeConcini. Thank you. Go ahead, Mr. Peters.

Mr. Peters. In Portland, we have really never run into a lot of problems as far as administrative support goes since I have been there. With the new reorganization, I do not see any change in how this is going to affect the way we do business up there. We do have problems sometimes with certain contracts in finance. When we bring the issue up to the regional director or the area director, we get corrective action.

Ms. Walker. Within our area, we are in the process of proposing consolidation of at least four portions of what were area education offices. With those four area education offices dealing with four separate administrative support services, the problems varied.

Hopefully, with the consolidation of administrative support that is being proposed in regional education offices—down to our having to deal with two regional education offices within our geographic area—that will eliminate some of the problems in procurement, contracting, personnel, et cetera. We will deal with two rather than four servicing administrative centers.

Senator DeConcini. Ladies and gentlemen, under section 1129 and 1131 of Public Law 95-561, the Education Amendments of 1978, superintendents in Bureau schools may appeal financial and personnel decisions made by the local school boards. These appeals are to the agency superintendent for education. Will you be involved in this appeal process at all, and if so, how much?

Ms. WALKER. I do not see any change in that at all, sir. The regional education office, as I mentioned earlier, appeals to the agency school superintendent. I do not see that being superceded. I would hope not.

Senator DECONCINI. Does anyone else have any observation or comment regarding the appeal process from the agency superintendent?

Mr. HOLMAN. No.

Mr. PETERS. No.

Senator DECONCINI. Agency superintendents may appeal the school board decision directly to the director of the Office of Indian Education Programs. Will you be involved in that process? Do you know? Would anyone care to answer that?

Mr. SOTO. Sir. I do not know the answer.

Senator DECONCINI. Does anyone know?

[No response.]

Senator DECONCINI. Were each of you involved in the administrative task force in this reorganization or were you aware that there was an administrative task force that was put together to consider this reorganization plan?

Ms. WALKER. Personally, I was not aware of one.

Senator DECONCINI. Were any of you aware that there was?

[No response.]

Senator DECONCINI. I thank you. I have no further questions. Does anyone care to make a statement? We are more than happy to entertain any comments that you might care to make. We are here to hear all of the sides and listen to the people involved in this. Does anyone care to make a comment?

Mr. SOTO. To go back to your other question in terms of the administrative task force, we have been aware that there were teams that have gone out to the various regions to see what the status of the plans were. If that is the concept of what you are talking about, yes, we were informed of that.

Senator DECONCINI. That is what I am talking about. It is some group that was put together prior to the organization. We thought it was called a task force. We wanted to know if you were involved in it. First of all, were you aware of it? Then, were you involved in it?

Mr. SOTO. In terms of the establishment, I believe that was established at the Washington level, sir. There was a representative from education that did visit our region in terms of this.

Mr. PETERS. They visited our region. We were just in the process of getting our task force team together at the time they came out. They did come out, and they did give us some guidelines as to what to work with.

Senator DECONCINI. Were any of you involved in being on those task forces?

Mr. PETERS. No; they were education staff personnel from the central office.

Senator DECONCINI. Can you supply us with the names or the offices?

Mr. PETERS. Carmen Taylor was the individual from education from the northwest region.

Senator DeConcini. Anyone else?

Mr. Soto. It was Cathy Bacon.

Senator DeConcini. Do you know of anyone else on the force?

Mr. Holman. Cathy Bacon represented the educational task force for Navajo.

Senator DeConcini. To your knowledge, was there a representative of the tribe or tribes on the administrative task force? Were you aware of the tribes being asked to join the task force or being on it?

Ms. Walker. No.

Mr. Soto. I was not aware of it.

Senator DeConcini. What did the task force do? Did it come and take testimony, or did it come in and discuss the problems? Exactly what did it do when it visited you in Oregon? Can you give us a little rundown of what transpired?

Mr. Peters. What they did was give us some guidelines and some information of what they would like to have seen within the proposal that came in the central office; the proposed plan. They were talking about some nomenclature and divisions within the organizational setup that they would like to have seen.

It was just some very minor guidelines that we were to work with in developing our plans.

Senator DeConcini. Does anyone else have anything to add, that you recall, about when they came to visit?

Mr. Soto. In terms of the western region, we were in the process of developing the plan. The individual from the central office of education that was involved was part of our process or was in the meetings we had held. This is in terms of how we were going to do certain things in looking at the tasks and the functions. There were guidelines in terms of a checklist and a guide-type thing that we would be able to review to see where we were in terms of the organization itself.

We also had requested any changes on the educational schematic or the flow chart. We in turn had developed some changes, and we gave that information as well. So in terms of the process, it was a review for us in terms of where we were in terms of the organization and the development.

Senator DeConcini. I have no further questions. We thank you for your courtesy today in being with us and answering as candidly as you did. Thank you and good luck.

We will hear from our next witness, who will be Mr. Roy H. Sampsel, Deputy Assistant Secretary of Indian Affairs. He is accompanied by Mr. Gabe Paxton, Director, Office of Indian Education Programs, Bureau of Indian Affairs. We will also hear from Mr. Benish, Acting Assistant Secretary for Elementary and Secondary Education. First we will hear from Mr. Sampsel and Mr. Paxton.

STATEMENT OF ROY H. SAMPSEL, DEPUTY ASSISTANT SECRETARY FOR INDIAN AFFAIRS, DEPARTMENT OF THE INTERIOR, ACCOMPANIED BY GABE PAXTON, DIRECTOR, OFFICE OF INDIAN EDUCATION PROGRAMS, BUREAU OF INDIAN AFFAIRS

Mr. Sampsel. Senator, in the interest of time, let us take questions because I know you have had a number of witnesses as a result of the hearing in the last day and a half.

Senator DECONCINI. Thank you. We appreciate your cooperation.

Mr. Sampsel, on April 26, 1981, I wrote a letter to Assistant Secretary Smith expressing my concern about the closing of the Bureauwide film service at the end of this school year. As you know better than I do, the film service has over 1,000 titles and a total of 5,500 films. In the past 27 years, it has circulated over 5.5 million films to over 200 BIA schools. In my letter I asked what alternative distribution systems are presently being considered.

As of now, we have received no reply. Do you have any information that you could give us on that subject matter today?

Mr. SAMPSEL. I would be pleased to, Senator, yes. We agree with the concerns expressed in your letter about the importance of those titles and the ability to have that distribution available. We will maintain that function in the central office, bringing it out of the Office of Training and Technical Assistance which was responsible for part of the distribution. It will become a permanent part of the Director of Education's Office in Washington, D.C., at the end of this fiscal year.

Senator DECONCINI. Will you have sufficient personnel to administer this program?

Mr. SAMPSEL. We believe that we will. Perhaps I should allow Dr. Paxton to deal with that directly since he is running the Office of Education. He is Acting Director.

I personally feel that we have, and I have not heard that we do not have the personnel to carry out the function completely.

Senator DECONCINI. Dr. Paxton, do you care to answer that?

Mr. PAXTON. At this time, Senator, the plan for this fiscal year is that the program will be under my supervisory responsibility and under the administrative responsibility of Intermountain School which is located nearby. At the end of the fiscal year, we will make whatever appropriate arrangements are necessary. The plan is for the FTE personnel to be transferred to my office.

Senator DECONCINI. So when you say appropriate plans after this fiscal year, you are talking about continuing the program?

Mr. PAXTON. Very definitely.

Senator DECONCINI. Only physically it will be under your jurisdiction?

Mr. PAXTON. The exact administrative arrangements, whether I directly supervise it or whether we shall continue it under a region, are yet to be made.

Senator DECONCINI. But it will continue?

Mr. PAXTON. Yes.

Senator DECONCINI. Just for the record so there will be no misunderstanding, this is really a library of films. Is that what it is?

Mr. PAXTON. It is the film library.

Senator DECONCINI. They do not make any films there?

Mr. PAXTON. Not in that particular part. There was another unit there where they did make films.

Senator DECONCINI. Is that still functioning?

Mr. SAMPSEL. Perhaps I can answer that. We have a functioning unit, which handles the filmmaking, slidemaking, and the editing process. The unit has excellent equipment and has produced some quality products.

We are, at this stage, evaluating whether the unit should be located in Washington or whether it can best serve tribes and tribal governments and the Bureau's needs at a field location.

Senator **DeConcini**. The actual physical location?

Mr. **Sampsel**. Yes. It has been in Brigham City. There is no question that we want to maintain the ability to produce films within the Bureau. We are not sure where to locate it. There have been two schools of thought and two option papers, and no decision has been reached.

Let me give you what those options were. One was to locate it at one of our existing school facilities in the field where it would have greater access to tribal governments.

The other option was to bring it into Washington, D.C., and to put it within the Office of Public Affairs. We have a very small Public Affairs staff here.

My inclination, at this time, without making a final determination, is to place it in the field. We will determine the exact location some time between now and the end of the fiscal year. That is, for the location of the equipment and the people.

Senator **DeConcini**. How big is the film unit?

Mr. **Sampsel**. Let me give you a rough description. If you wish, I can get you the specific details. We have at least three commercial videotape units. We have a complete sound and visual editing system, which is very, very complete. It has a capacity to reproduce, I believe, at the rate of 3,000 per hour on the slide reproduction equipment. It is a complete printing and offset facility, which is very, very good equipment.

The studio arrangements are limited to nonexistent at the facility, but the field capacity is much better. It is very good equipment. It is modern equipment.

Senator **DeConcini**. So that I can understand this, do you make actual films, or do you do more reproducing, and is this available through a distribution system?

Mr. **Sampsel**. We make both. For example, if we were to do a training film for our forestry or law enforcement activities, those films could be produced. I am using the wrong terminology. I should really say the tapes. It is a video system that we are doing primarily most of it with now.

We also produced an award-winning film for the Bureau of Reclamation recently. The technical capacity is there to produce. The products are basically of a training nature as opposed to a public affairs nature.

Senator **DeConcini**. So those films are not part of this library or the Film Service Bureau?

Mr. **Sampsel**. Yes, they are. They are integrated into it. They have a single library system for all of the films that are there. There was a tremendous amount of work done very, very early on in terms of upgrading some of the existing training and internal films and video tapes that were used for school board education training.

Frankly, the few I have seen were of very good quality. There is no intent to dismatle that library, or to put it in another position within the Bureau, or to diminish the capacity to continue to produce internal training films.

Senator **DeConcini**. Do you have any idea or estimation of how many films are made in an average year?

Mr. **Sampsel**. I am sorry, I do not. I could get that. I can provide it for the record.

Senator **DeConcini**. Without objection, the record will be held open to receive that information.

[Subsequent to the hearing the following information was received for the record:]

The Center produces an average of six films or videotapes per year. As I have mentioned, they are primarily training films. The Center has a library of approximately 5,500 titles. In addition, it has multiple copies of the most-requested films and tapes. The library has a yearly circulation of about 30,000 showings.

Senator **DeConcini**. It is my understanding that the BIA has proposed to phase out the operation of the Phoenix Indian School by 1985. Is that correct?

Mr. **Sampsel**. It is on a proposed closure phaseout list, yes; that is correct. It is on a list that was compiled on the presumption that we needed to begin early preplanning and also allow for the proper consutation on proposed Bureau actions. This is not by any stretch of the imagination a final decision. What this does do is target potential closures and allows us not to be in the position that I think we have been in, which is making decisions relative to closures without having enough prewarning to allow for proper dialog and discussion.

The purpose for allowing that list to go forward was not to say, "this is what we are going to do," but to say," this is what we may do, and can we please have a comment, and can we get together the plans and discussions that are necessary to clearly evaluate that decision before putting it into some budget exercise."

Senator **DeConcini**. When will the decision be finalized?

Mr. **Sampsel**. We are in the process now of planning our 1984 budget. We have gone out to the field and have had a number of issue policy meetings throughout the United States on the 1984 budget in the months of April and May.

In terms of any 1985 closure, that would have to be reflected, I believe, in the terms of its impact, on the 1984 budget. That is, if we were going to do it, our 1985 closure would be reflected in the fiscal year 1984 budget. In July, we will be presenting to the Department our preliminary 1984 budget. I would imagine a decision document would be coming out of the Bureau based upon that some time between August and September. Then we will submit that material to OMB and receive their passback.

So we are in the process now of making those determinations and having those types of discussions. No firm decisions have been made that are targeted for the 1984 budget at this time.

Senator **DeConcini**. Do you know the position of the Arizona tribes?

Mr. **Sampsel**. We have had some preliminary discussions, and perhaps Mr. Paxton can deal directly with this. It would be my position that prior to having any decision made we would hold a series of public meetings with the Arizona tribes to get direct input as opposed to informal discussions and letters as we have had in the past.

Mr. **Paxton**. Seventeen tribal groups testified in Phoenix. They were aware of this, and we have their testimony. It has come in.

Senator **DeConcini**. The decision has not been made. It was only a proposal. Is that right?

Mr. **Paxton**. That is right.

Senator **DeConcini**. Were you impressed with the tribe's position on not closing?

Mr. **Paxton**. I am always impressed when a tribe gives its viewpoint.

Senator **DeConcini**. Did they convince you?

Mr. **Paxton**. I would say, very honestly, that particularly one tribe convinced me enough so that I am going to meet with them in June. There are serious problems, and if we do close Phoenix, we need to have alternate plans for those students.

So I would say they did make a deep impression, and they have identified what the problems are. We will now work with them.

Senator **DeConcini**. In your opinion, Mr. Paxton, was there any question on the hearings in Phoenix that the Phoenix school was under consideration to be closed? Was that clear in your opinion?

Mr. **Paxton**. It was clear that they understood that it was a proposal. It was not even in a proposed budget at this time, but we felt they needed to know way in advance so they would not be caught by surprise.

Senator **DeConcini**. Was it presented to them as a plan or a proposal that this is what is going to happen?

Mr. **Paxton**. It was presented as a proposal.

Senator **DeConcini**. Was that published in the Register that way, too?

Mr. **Paxton**. We can give you a copy of the Federal Register, and it so states.

Senator **DeConcini**. It does. Thank you. I will take your word for it.

Mr. **Sampsel**. Let me add this on the Phoenix situation. There have been a number of discussions relative to the future of the Phoenix Indian School. One of the considerations discussed is whether we would be willing to entertain an alternative facility in terms of the potential use of that property for some other purpose. There has been a tremendous amount of interest shown both by the city and by some other people in terms of the potential private development.

We have not entertained a great deal of discussion in this area as yet, but if in fact Phoenix were to be closed, it would only be closed if we are sure that the plan would deal with the needs of the students in that area.

The Papagos have a problem. We know what we have to look for nationwide, which is why we put out the notice the way we did. That is, what are the off-reservation boarding school needs in this country? Clearly, there is a need within the Southwest for some type of facility that would meet those needs. Maybe Phoenix is the answer, but that has not been determined yet.

This is just the first of a series of dialogs with the tribes which we hope will allow us to make some reasonably intelligent decisions that are both budget sensitive and at the same time are meeting education needs. We hope to do it in a comprehensive way so that we are dealing with what are really the off-reservation needs in terms of boarding schools in this country.

I do not believe in the past we have had the luxury of doing that in a comprehensive way with a long enough time line for planning that has allowed proper tribal input or has allowed the Bureau and the Department of Interior to say, "this is where we would like to be in 1986," or to say "we may need an expanded facility at a given area to do X, Y, and Z." Nor have we been able to start with a long-term budget process that does not allow us to close a facility without proper replacement, and to deal with that. That is really one of the reasons this was started—not to force the issue, but to get it out early on the table so we can have a long period of dialog.

Senator DECONCINI. What concerns me, Mr. Sampsel, yesterday, we were told by the public school district that serves the Papagos that if the Phoenix Indian School was closed they will have to build another public high school in the western part of the reservation. I wonder if you or Mr. Paxton are aware of that information from the hearings? That is what the public school system says out there.

Mr. PAXTON. Senator, we are aware of the issues. We are aware of the concerns of the Papago Tribe. As I mentioned before, we have already set the date of June 22 when we are holding a day and a half of meetings with the Papago Tribe.

Senator DECONCINI. If that were the case, perhaps you can answer this. Would the Bureau be prepared to request money under Public Law 93-638, title II, to build the new public high school?

Mr. SAMPSEL. As you know, we have a priority construction system. Certainly, if the need was there after having the discussion and the Phoenix Indian School was considered for closure, yes, we would be prepared to do so. Whatever administrative steps were necessary to provide for the students that might be displaced as a result of the closure of the Phoenix Indian School would be made a part of the priority, and funds would be requested on that basis.

Senator DECONCINI. Under this title?

Mr. SAMPSEL. Let me be a little bit ignorant in terms of whether or not that is the proper title.

Senator DECONCINI. The reason I ask the question is that I am told that BIA has never requested funding under title II of 96-638 for public schools. I just wondered if you were prepared to do so in the event you made the decision to close schools such as Phoenix in the event the testimony given by the school district serving the Papago Indian Reservation were such?

Mr. SAMPSEL. There may be other alternatives than using title II in the public school section as to whether we would request funds necessary to provide for the proper education of the students, I do not think there is a question about that.

What I would like to do is beg off on a specific answer at this time on whether that title would be used and provide that for the record after I have had a chance to consult with some of our facilities people who are not present at this hearing now.

Senator DECONCINI. Thank you. I will ask that you stay here, and we will have Tim Woodcock, our staff director, take over and ask some questions. We are expecting another member to be here shortly.

We do have about 15 other questions.

Mr. Woodcock [acting chairman]. Mr. Sampsel and Mr. Paxton, I know you have been patient in waiting your appointed hour to arrive to testify before the committee, and I hope that my presence here is not viewed as a further indignity seeing as I do not partake of the electoral mandate that people who usually occupy these chairs do.

I have a series of questions here, and I should probably indicate at the outset that I expect my presence here to be most temporary. The first question deals with the nature of the Federal responsibility for Indian education. I would like, if I could, to ask you if you could give me your opinion of what that responsibility is. In dealing with this issue frequently, the legal doctrine of the trust relationship is invoked. That covers a broad spectrum depending upon one's interpretation. It covers the notion of a fiduciary relationship, and it also would include, under a perhaps less stringent interpretation, a doctrine to do what is reasonable for Indian education.

Could you give me your opinion as to how you see the trust relationship as it relates to Indian education?

Mr. Sampsel. I would be pleased to. Over the course of the last few months, this has developed into what appears to be an extremely important and emotional issue in regard to the definition of Indian education and the responsibility of the Bureau of Indian Affairs of the Department of the Interior for it.

The word "trust" has been used as something which allows us somehow to make it a special responsibility—a responsibility of the Federal Government as it relates to education—as being in some cases more express than a general trust responsibility. In those cases where treaties specifically call for the education of Indian children and Indian people, they certainly require a higher standard than some other relationships called trust.

There are statutes that have been passed and laws that have been passed by this Congress which are to be implemented by the executive branch which call for specific responses to the need for education of Indian people and Indian children.

I feel a little bit troubled when I am asked to defend education strictly on the trust responsibility argument because I think that it diminishes the responsibility and its importance as it relates to those tribes who have specific treaty obligation by this Nation to have that service provided.

Now, am I trying to back away from the question as to whether or not education is a trust responsibility? No. What I am trying to say is that if in fact we are to provide the education needed for Indian children, then we should not be so much worried about what the title and the responsibility is but whether or not Congress is going to give us the direction and the authority to carry out that responsibility and the means necessary to effectively deal with the education of Indian people.

We should not forget that a great many Indian children are educated in the public school system. Yet I would hasten to add that should that school system fail to educate that Indian child there would be no choice but for this administration, this Congress, this Government, this Bureau to assume that responsibility on behalf of those Indian people.

Does that make it a trust responsibility? I am not sure. When we begin to talk in the legal definition, I am counseled by attorneys that we are getting into the ward-guardian relationship, and we should be very cautious about what we say in terms of what that means. I do not view it that way. I think there is a trust responsibility that deals with the trustee relationship as it deals with Indian lands, which is clear. I think there is a responsibility in Indian education which is also clear but may not be specifically related to the trust relationship.

Clearly the statutes, the history of this Congress over the past 200 years shows a Federal interest in Indian education—you have to remember that Indian education was the first Federal education in this Nation. It is not something new. I cannot imagine this Congress, or this administration backing away from that responsibility regardless of whether we call it a trust or a nontrust responsibility.

What I am trying to say, and perhaps in more words than are necessary, is that there is no question that there is a responsibility to take care of the educational needs of Indian people of this Nation. It is a Federal responsibility in statute. It is backed up by stronger documents than treaty, and there is no intent to back away from that responsibility regardless of how it is placed in the law.

Mr. **Woodcock**. How would you compare that responsibility to, say the responsibility of the States, to educate Indian students?

Mr. **Sampsel**. Certainly Indian people are citizens of States, and the States have particular responsibilities. I think that what we need to address, and maybe Mr. Paxton can give us the exact statistics on this or we can enter them for the record, is that in excess of 80 percent of all Indian students today are educated by public school systems within the States. Part of the Johnson-O'Malley program is to make sure that there is some consideration for the special needs of the education of those children.

Because I am not an educator, I may be getting out on a weak limb or two. However, I feel that the States have a responsibility, and I feel that we have a responsibility to make sure that they are fulfilling their responsibility and to, where that is not possible, provide that service for Indian people today. Today, we educate roughly 40,000 Indian children, and we are not about to back away from that responsibility.

The States educate the majority of Indian children. We have had a series of difficulties, I think, in terms of dealing with that as a future alternative. We do not know the exact effect of reductions in impact aid, but we do know that it will hurt. We do not know how we are going to address that as a Bureau, but we will address it if it becomes necessary.

If, as I said before, the public school system, the State-supported system is unable to provide the education for Indian children, we have the responsibility to make sure that it is provided. It is really that simple.

Mr. **Woodcock**. Let me ask you again, would you see the Federal responsibility as being primary in relation to that of the States or secondary in the form more of back-up assistance?

Mr. **Sampsel.** I think we are going to have to do that on a location-by-location basis, and I would not like to make a statement. There are certain cases, and I am a little saddened to have to say this on the record, in which States have clearly proven that they do not have the social justice or conscience to provide adequate education for Indian people. Therefore, while it may have been their primary responsibility, we are not going to walk away from that one either.

Mr. **Woodcock.** If the BIA would have to take over the education of children which the public schools cannot educate, why is the BIA proposing to close boarding schools which we heard today have 83 percent or so of their students who are dropouts from public schools? The public schools appear to be unable to provide for the education of these students.

Mr. **Sampsel.** If you could please identify the schools, perhaps I could be more specific in my answer. Are we talking in terms of those in Wahpeton or which ones are we talking about?

Mr. **Woodcock.** I will conclude that the schools were Sequoyah, Intermountain, Flandreau, and Mount Edgecumbe.

Let me add at this point that I will willingly turn the gavel over to Congressman Williams. I am delighted to have him here.

Mr. **Williams** [acting chairman]. Thank you very much. I will explain my delay in being here by telling you that it is unusual that a Member of the House comes over to the Senate to chair a hearing. These are kind of ad hoc joint hearings, and I am pleased to be over here and am pleased to be with you.

Gentlemen, at the risk of repeating some of the questions that have been asked, but because of our interest in the House on certain aspects of that, let me present a few questions to you.

First, explain to me with some detail what kind of analysis you have done in your decisions to move to close the schools that you have moved to close, and also explain an analysis, if any, that you have anticipated or conducted on the schools that you may move to close.

Mr. **Sampsel.** Congressman, the Concho and Wahpeton closures were predicated basically on the concept that we believed and continue to believe that the education of elementary students is not best served in a boarding school environment. That is consistent with the belief, as articulated by Congress in the passage of education acts of the past few years, that the Bureau should not use education as a means by which to deal with other social problems such as broken homes, alcoholism and the failure of the social mechanism within the local community.

As to the analysis that was done, we took a look at those schools and said we should be in a position to close them. We have the resources necessary to come up with a better answer and to take care of all the students who are involved. We will do that on an individual basis with proper casework with each student.

The detailed analysis and study reviews staff reports, on-site inspections, and comments and deliberations over the course of the past 1½ years. Did we put together an actual closure plan? No, we did not. The closure plan was put together after we were in a position to determine whether or not we could go with that decision. The closure plan includes the counseling of the employees, the dealing with the physical facilities, but most importantly in dealing on a case-by-case basis with families and students involved to find alternate educational situations which we hope result in a better social atmosphere for the child and a better educational opportunity at the elementary level.

Wahpeton and Concho are both elementary facilities, and we have been highly criticized for the decision to close them. In fact, we are presently enjoined from proceeding with the closure of Concho. However, in terms of why we made the decision, the decision was made on the basis that we believed and continue to believe that the best education for these children is not in a boarding facility but in a day school with a combination—and perhaps even at an increased cost in some areas—of the foster home care necessary for a better environment of the child overall.

There will be arguments about the facility and whether or not it should be closed, but there was no decision made to close these facilities that did not take into consideration, as the basic policy motivation, the sincere belief that children who are in the first through eighth grades should not be put into a boarding school environment for 9 months of the year and return to an undisciplined and unmonitored social situation at home for 3 months of the year.

Mr. **Williams**. I want you to know from the beginning, I am not enamored with the boarding school concept. It seems to me, if we did not have boarding schools and you or someone in the administration came up with an idea for them, that would be overwhelmingly opposed on the reservations and here in the Congress. I base my thoughts about boarding schools on a kind of subjective judgment I make that we really should not be moving elementary school children out of their communities and away from their families and into a boarding school. But that is a subjective judgment.

I would not close these schools without having first done a rather complete analysis, including but not limited to a cost analysis. That is where my question goes to you. You and I may agree that boarding schools might not be in the best interest of either the Indian child or parent, but my question is, how can we demonstrate that to ourselves and to the Indian people and to those students and those parents? What ananlysis have you done to demonstrate that boarding schools are a bad idea?

Mr. **Sampsel**. I think the overall track record of past successes and failures speak to that issue. Can we produce the definitive document? No, we cannot.

Mr. **Williams**. We should produce something before we close them down, should we not?

Mr. **Sampsel**. What should we produce, if I may ask?

Mr. **Williams**. You all are suggesting that we close them down. I guess I am saying, before we do that, what analysis has been done and what proof do we have that they do not work?

Let me just ask you some questions about analysis. Are test scores of students in boarding schools lower, the same, or higher than the test scores of their peers living at home and attending the regular public schools?

Mr. **Sampsel**. May I please yield to Dr. Paxton?

Mr. **Williams**. Of course. Dr. Paxton.

Dr. PAXTON. On some tests concerning the Wahpeton students, in 1976, the academic achievement on the basic skills achievement test, 82 percent of the students scored below grade level. In 1977, 76 percent scored below grade level; and in 1978, 77 percent; 1980, 61 percent, using 50 percent as the national norm. At the same time, I do not want to indicate that the school is doing a bad job. They are doing a better job since 1976. Even in 1980, the last year for which we have testing data, 61 percent of them scored below grade level. That is not to detract from what they are.

Mr. WILLIAMS. Doctor, how does that 61 percent, or taking the average perhaps it is 72 percent, below grade level compare with their peers in the majority schools?

Mr. PAXTON. Again the majority of schools are at 50 percent. What we are saying is that our test data shows 61 percent of them score below grade level.

Mr. WILLIAMS. What was their grade level before they entered the boarding school?

Mr. PAXTON. When they came from the public schools, we were not provided with data for comparison.

Mr. WILLIAMS. It has been indicated to us that the students entering the boarding schools were between three and five grade levels below the national average achievement level. If that is true, that may be telling us that the collapse is not in the boarding schools; the collapse was before they go to the boarding schools. The boarding school may be doing a good job. I think the analysis has to go into some depth to determine whether or not the boarding schools themselves are being successful. It occurs to many of us in the House and members on both the Interior Committee and the Education Committee—and I sit on both and I am familiar with the problem—it occurs that we are dealing with a troubled child and with a troubled family sometimes.

That leads us to serious questions, among which is this matter of the analysis and how complete and how focused the analysis is, given the serious nature of these students' difficulties before they come to the school. There is no question but that these students are below grade level. The question is, did the boarding school make them that way?

Mr. PAXTON. That is not what we are saying. We are only saying that these are their test scores. We are not saying that the boarding school created it.

Let me suggest something else if I might. The boarding school also is not necessarily an environment which allows the student to achieve. We are talking about a situation in which students are allowed to be placed in a custodial care situation which also happens to be a school. We are suggesting that there is, within the social structure of this country and within Indian communities, a better answer than a boarding school. That does not mean necessarily a public school. That can be another Indian school. That can be a day school.

The issue is whether it is the best answer for that student. Our conclusion is that it is not, and that we can better serve those students by eliminating that school and by providing additional services in the social area. Maybe that requires an increase in the social workers who are dealing with those individual reservations and those individual families. That is not to detract from the educational activities that have gone on at those schools. We are not saying they are bad educational institutions. We are saying that they are not the best environment for the education of Indian children.

Mr. WILLIAMS. With regard to your suggesting that there may be a better place and a better method with which to educate these young people, what alternative methods were going to be provided for the children of Wahpeton and Concho?

Mr. SAMPSEL. Mr. Paxton has that information.

Mr. PAXTON. Mr. Chairman, as we made our contacts with the parents, we have now met with each of the parents of Concho. It is sort of a moot point at the moment because the court has ordered that we cease any attempt to close the school. I do want to tell you that we did contact each parent. We did have a plan for three teams of two people, skilled counselors and/or parents and educators, to go to each of the homes and to sit down with the parent and work out an alternate plan.

We do have, for instance, a whole list that we could provide for the record, indicating where these students and the parents said they would go. Twenty-three of them indicate that they would go to Carter Seminary, which is a BIA dormitory operated in Ardmore, Okla. The students simply stay in the dormitory and attend public school.

Five have indicated they are going to Sunset Elementary Public School, and on down the whole list. I can give the list to the recorder at this time to show that we have done our homework and that we intend to follow through during the summer months on placement plans for the students in Concho.

Mr. WILLIAMS. Are these schools able to take and properly work with students who may be considerably below their peers in scholastic achievement and also who may have some difficulties which require intense counseling?

Mr. PAXTON. Mr. Chairman, our analysis shows that there is no question that the public schools can educate the students. That is not the issue because they also get Johnson-O'Malley funds. The Johnson-O'Malley aid to public schools funds are used for such things as counselors, for aides, for tutors, for whatever the local parent committee decides. Also they get title IV from the Department of Education. Many of them get title I funds so that the disadvantaged child does get remedial help and additional help.

In every case where I have talked with parents, the issue is not whether the public school can give a good education for the students. We believe in the public school system. We believe that in Oklahoma and North Dakota they have good school systems. The issues here include the social factors at home. I talked to a group yesterday. They said that we indicated if you close the school we will send them to public school. They will get just as good or a better education at that public school than they would at the school that you are proposing to close.

The problem is whether we can keep them there.

Mr. WILLIAMS. Are the public schools in Montana, both on reservations or near reservation schools, receiving the Johnson-O'Malley benefits impact aid, and some of the others that are available for schools which have children from federally impacted areas or have troubled children? Yet, if those schools, any of them that I can think of, had to suddenly accept another two dozen troubled youngsters, they would really have a tough time dealing with them. These are small schools, and if one classroom had to take five or six additional students and had no additional assistance with which to deal with those students, they would have a bit of a problem. That would do those new students coming in no good, and it would also be difficult on the students who were already there. It might pull them down. What I am getting at here is to be certain that if begin to close these schools we do everything we can to prepare a soft landing for the student going into the new school, even if that means some additional one-time program money coming out of some discretionary fund.

Mr. **Sampsel.** I feel we will have the capacity to deal, on an individual basis, with each of these students and their families. I think it would be an overstatement to say that we were going to be able, in all cases, to guarantee a success in terms of that transfer. There will be no shortage in terms of the commitment to apply whatever social services moneys that are necessary to deal with the effective transfer, both for that family and that student, out of that boarding school situation.

I believe in the long-term that there will be a benefit by having done that. If I did not believe that, I could not in clear conscience stand before this committee and recommend that those closures take place.

Mr. **Williams.** Mr. Sampsel, is there a waiting list for any of the schools slated for closure?

Mr. **Sampsel.** Not to my knowledge, but perhaps I should ask Mr. Paxton. I know of no waiting list at either Concho or Wahpeton.

Mr. **Paxton.** I certainly have recently reviewed the Concho school. It is underutilized. It does not have a waiting list to my knowledge. However, I have heard the testimony of the superintendent of the school that they do have a waiting list. I will accept his word.

I am saying in the case of Concho that I have just recently made a site visit to two of the dormitories where the students might attend and whethere there is space available. There are over 150 beds available if we still needed some of the students placed perhaps in a better environment where they could go to public school and then have the care there.

It is a more difficult problem and admittedly so in North Dakota where Wahpeton is located because we have students coming from 10 States. As far as North Dakota is concerned, there are only 85 students attending Wahpeton from North Dakota. We also have 26 from Montana, 26 from Wisconsin, and 59 from Minnesota. Because of the widespread 10-State area where students are coming from, it certainly violates our policy of educating students as close to home as possible. We still sincerely believe, Mr. Chairman, that there are other solutions and we are committed to find such solutions rather than bringing small children from a 10-State area. I have been to Wahpeton and I have seen those small children in those classrooms. They are healthy and getting a good education. We are not saying it is a bad school. If I could say Wahpeton is a bad school, it would be easier to close it. But it is not. It is a good school with good staff. The students are performing. Their test scores are increasing. But, that is not the point.

Bringing small children from a 10-State area to a location in one State for an education, is just not the way to do it in the United States.

In the past, we have said the solution to Indian problems is to isolate some of the children in these boarding schools. That has been the solution. As Director of Indian Education, I am saying there must be a better solution.

Mr. WILLIAMS. Back generations ago, when we made these first mistakes, we told the Indian people that we were going to consult with them before we made decisions which affected their lives and the lives of their children. As near as I can determine, there was not much consultation when these boarding schools were set up. We were trying, as I understand it—and I could be wrong because I have not focused on the negotiations that went on at that time—but my recollection is that without much consultation with the Indians this Government simply decided that it was going to try to move as many people away from the Indian culture and away from the Indian reservation as possible, and that was the nugget of wisdom, if you will, behind the boarding schools.

We may not be able to correct that mistake, but we do not have to make the same mistake again with regard to not properly negotiating and consulting with the tribes and with the Indian people and the students and the parents. Before decisions are made again, whether it is to open more boarding schools or to close the ones we have, it is absolutely essential that this Government negotiate to the *n*th degree with the Indian people in a determination of how we can now best move on with education in this country. I would like whatever assurance you gentlemen can give that those consultations this time are ongoing.

Mr. PAXTON. To show you that they will be, let us also make perfectly clear that the reason for the court injunction is not that the schools should not be closed, but that we failed to consult in a timely and accurate manner.

Without prejudging this, I think this is a question that has, in fact, blemished the administration record in terms of this decision. The publication in the Federal Register and the proposals that schools might be closed in the future is a means which we chose to take care of this. There was an identification in the 1983 budget of a desire to close Intermountain. This was really a means of identification so that we could have adequate consultation with the students and the tribes and employees. What you have requested, we believe, is essential. We will carry it out.

Had we the additional time to consult on these issues, we should have done so. I do not think, however, the mere absence of consultation is a clear reason to discard the validity of the arguments that are being made both in terms of cost and in terms of the basic policy with regard to education at Wahpeton and Concho.

Mr. WILLIAMS. The absence of consultation, however, has been a critical mistake in the past. It seems to me that the courts were wise not to allow us to proceed until that consultation had taken place to the fullest extent.

In your judgment, are there any exceptions to consultation that is required with Indians regarding education policy?

Mr. SAMPSEL. I think the law is very clear on what the consultation policy is. We made a decision to put into the 1983 budget the closing of Concho and Wahpeton and then immediately went to talk to the affected people. The general RIF notice was a means by which to inform the employees. Consultation of the individual families, dealing with the individual students was a means by which to solve that problem.

The decision, which was an administrative decision placed within the President's budget, to close those schools was made, and we proceeded to go about dealing with that in an effective way. It is clear now that the final decision is going to be made by this Congress as to whether or not those schools will close or not. If for some reason they are chosen not to be closed by this Congress and funding is continued, I would like to assure the committee that a proposal will go forward to close those schools on the basis of policy again in the 1984 budget, and that consultation will begin immediately on that process.

Mr. WILLIAMS. Were the figures put in the budget before consultation began with the tribes?

Mr. SAMPSEL. That is an interesting question. We are allowed within the Bureau of Indian Affairs to deal with our budget-making somewhat differently than other Federal agencies. Normally in the budget-making process you do not release the budget figures until such time as in fact they have cleared. OMB has given us—and I can provide for the record, although I cannot remember off the top of my head the exact law and statute which allows for information to be placed with tribes. It very specifically allows us to provide tribal governments with a preview of programs, budgets, and projects that will affect them in the President's budget prior to the President announcing it.

This all goes back to the consultation concept. The belief that we should consult with the tribes on specific budget requests has led us to the publishing in the Federal Register of the potential closures prior to their implementation into the budget cycle. This is not an excuse for the process that was carried out.

I came to this town almost a year ago. At that time, the 1983 budget was essentially prepared. It was on its way to the Secretary. So we were dealing with this budget decision. Why the consultation have not taken place a year or two before based on recommendations made over the course of the past couple of years, I cannot say. I am not apologizing. I am just saying that I do not know the answer.

I recognize the difficulty of what we are dealing with. The publication in the Federal Register was an attempt to anticipate such problems. In our commitment for consultation, in the months of April and May, I went to at least four cities—Albuquerque, Phoenix, Gallup, and Anchorage, and Mr. Paxton was with me on some of those. We sent out a team of people to deal with the 1984 budget formulation, prior to our even getting it in to the Assistant Secretary's office to discover what the issues were. Some of the questions we asked were: What if we have to cut? What are your priorities in terms of national programs?

There has never been a question about the validity of the band process in dealing with tribal governments. Those are programs that exist within the tribes in which the tribe has the ability to participate and to set its own priorities. In any budget cut including this last one and for 1982, tribal priorities were held sacrosanct from any cut. The tribal agency priorities were not allowed to be touched within the cut that came down.

In the past, OMB believed, and continues to believe, that that is a very valid process. We get into overall programmatic activity such as dealing with an off-reservation boarding school situation. What are the closure opportunities? We decided what we needed to have in the 1984 cycle is a chance to get ahead of that curve. We went out and met with affected tribes. Those were public meetings. There is a record of all those meetings. All the tribal testimony was recorded. We will be publishing a summary of that.

We plan to go out—and we do not have the exact dates—in September of this year to show them what we have done with their suggestions as it relates to what we finally end up with in the 1984 budget submission that will be going to OMB.

So, I think that we have responded to the legitimate criticisms of not having effective consultation. I might also say that I do not think there has ever been a road map for effective consultation, but we are tring to build one now.

Mr. Williams. Are you planning any future closings of on-reservation schools?

Mr. Sampsel. Yes, we are, but we have not gone into the implementation of that yet. Let me speak specifically about Navajo. We have been talking about the consolidation of certain schools at Navajo that would allow for the closing of space that is not currently being utilized to its full capacity. We are talking about doing that in relationship to two studies that were done on Navajo and the Navajo day school. We have begun to look into the consolidation.

We have not yet at this time actually closed any of the facilities that we plan to consolidate. I have not had the opportunity to talk in detail with the people at Navajo. Perhaps Mr. Paxton has.

The answer to your question is, yes. At Navajo, there will be some plan to close some facilities on a consolidated basis. This is primarily the result of two studies done at the direction of the House Appropriations Committee. The cost factors in those studies were very, very high. I would be pleased to submit for the record our analysis of those two studies at Navajo on day schools and the possible consolidations after final departmental and Bureau review. In accordance with our consultation policy, we are planning to meet with affected Navajo families on this matter on August 18. That meeting will be held on the reservation.

Those are the only ones I am familiar with.

Mr. Williams. We would be pleased to have those studies. Without objection, they will be included in the hearing file.

[Subsequent to the hearing, the following note was received.]

Note: The analysis and studies referred to above are still under review within the Bureau and the Department.

Mr. Williams. I asked an earlier question about analysis and we talked about educational policy and theory. What cost analyses have been done with regard to the boarding schools for the purpose of allowing them to remain open or to close?

Mr. Sampsel. The two that we are currently talking about proposing for closure in 1983, like Intermountain and Mount Edgecumbe, are Wahpeton and Concho which we are talking about closing now, effective in the 1983 budget.

Mr. **Williams**. Let us talk about Wahpeton and Concho first.

Mr. **Paxton**. We do have an analysis which we can submit for the record which discusses the fact that Wahpeton's costs in fiscal year 1981 were in the excess of $8,000 for average daily membership.

[Subsequent to the hearing, the following information was received:]

1980, $6,900; 1981, $7,500; 1982, $7,800.

Mr. **Williams**. How does that compare with similar public schools?

Mr. **Paxton**. In North Dakota where Wahpeton is located—and, of course, North Dakota does not have a system of boarding schools for their students—the average cost for a public day school is $1,957 for the same year of 1981. That also compares with our average day school student cost of $4,000. So we are talking about a comparison of $8,000 to $1,957.

In fiscal year 1982, the tentative allocations for Wahpeton for school operations was $1,308,000. For the operation and maintenance of that school's facilities, it was $435,000. From the Department of Education title programs, we have special funds coming in the amount of $1,900,000.

There were a number of other cost factors that were analyzed. For instance, to bring Wahpeton up to full operating capacity—and part of this is for the requirements for bringing the facilities up to the handicapped level—it would be $1.6 million if we had to improve facilities right now. That includes $495,000 for code compliances, and $742,000 for code repairs.

We have $247,000 for demolition and replacement, and $165,000 for environmental improvements.

I just cite these figures as an example. We have a position paper analyzing the various costs in 1981 and 1982 and projected for 1983.

Mr. **Williams**. Do your costs include the additional cost which will be placed on the schools that take those students? For example, if a significant number of those students returned to a nonreservation school, there may very well be an increase of Federal impact aid money for that school. There could be an increase given this particular situation in foster care money. There are other types of alternative institutional care for the students, particularly older students. That, too, would be an additional financial burden on the taxpayer. Have you included those costs in your analysis?

Mr. **Paxton**. Only in a general way. Take for example the 26 students from Montana who are at Wahpeton. We do not know for sure where they will be in September. However, if they are in a BIA school, then the formula of funding will follow them. If they are in a Bureau school, the formula funding that they now receive will go to that school.

Mr. **Williams**. So there will not be any savings with regard to that money?

Mr. **Paxton**. If they go to a BIA school, but if they go to an impact aid school, they will be counted there. If they are on or near a reservation, the Johnson-O'Malley funds will be counted. In most cases, the title I funds would go to the disadvantaged child.

Mr. **Williams**. Again, I would encourage the administration to continue to do a very careful analysis, both of education policy, with regard to its impact upon the students that we are dealing with here and a careful cost analysis. This is because very often in education the money saved in the short run is lost many times over in the long run, and you and the rest of us want to be sure that does not happen.

Very important is that we want to assure that these students, many of whom are troubled and that may be the reason for their being in the boarding school, would not be further troubled and further condemned to nonachievement in school and perhaps later in life.

Many of us are concerned, as I know you are, about the possible effect of these moves on these children. We simply have to do everything that we can to assure that if the closures are made and the moves go forward they go forward in a way that mitigates against injury to these students.

. I want to thank you for your testimony here today.

Mr. SAMPSEL. Thank you, Mr. Chairman.

Mr. PAXTON. Thank you, Mr. Chairman.

Mr. WILLIAMS. We have the Department of Education panel next. We have D. Jean Benish, Acting Assistant Secretary for Elementary and Secondary Education, Department of Education. She is accompanied by Monika Edwards Harrison, Frank Ryan, and William Stormer.

STATEMENT OF D. JEAN BENISH, ACTING ASSISTANT SECRETARY FOR ELEMENTARY AND SECONDARY EDUCATION, DEPARTMENT OF EDUCATION, ACCOMPANIED BY MONIKA EDWARDS HARRISON, DIRECTOR, POLICY, PLANNING, AND EXECUTIVE OPERATIONS/EXECUTIVE ASSISTANT TO THE ACTING ASSISTANT SECRETARY; FRANK RYAN, DIRECTOR, INDIAN EDUCATION PROGRAMS; AND WILLIAM STORMER, DIRECTOR, DIVISION OF IMPACT AID

Ms. BENISH. I have given you my statement, and I would prefer to abbreviate that statement. With your approval, I will begin.

Mr. WILLIAMS. Yes, please do. Without objection, your prepared statement will be entered in the record following your oral testimony.

Ms. BENISH. We would like to thank the committee for the opportunity to appear before you today and to discuss the activities of the Department of Education which provide services to Native American populations across the country.

I am accompanied by my executive assistant, Ms. Monika Harrison, who is also director of policy, planning, and executive operations; Dr. Frank Ryan, director of Indian education programs; and Mr. William Stormer, director of the division of impact aid. We will discuss the current status and the plans for the next year for the Title IV Indian Education Act programs administered by the Office of Indian Education.

In summary, our Indian Education Act programs are serving more than 300,000 elementary and secondary Indian students. Well over 15,000 adults and slightly over 1,000 college and graduate students are affected. These services go out through the public school systems and through the colleges and universities. Our programs assist in providing improved curriculum, giving added emphasis to basic skills and contributing to the overall improvement of education for Indian students.

These improvements are being effected through parental involvement and guidance from the Indian community. Indian adults are being afforded the opportunity of attaining added instruction; enabling them to achieve the equivalent of a high school diploma. Indian college students are being provided the opportunity of pursuing college or graduate work in selected subject fields.

The Indian Education Act budget requested for the next fiscal year is $51,119,000. This is a decrease from the current year's funding for these programs. We simply had to recommend lower levels of funding for virtually all of our education programs in order to respond to the economic conditions of the Nation and to contribute to the deficit reduction objective.

One of the Department of Education's programs providing significant resources to aid education in school districts enrolling Indian students is the impact aid program. This year this program will provide an estimated $126 million to about 698 public school districts, enrolling an estimated 98,000 students living on Indian lands.

Once the recipient school district receives this money, it becomes a part of the general fund which may be spent in accordance with State and local policies for providing education. The district receiving funds must elicit the advice and recommendations of the Indian community in planning and providing educational programs.

The impact aid program has also provided resources for the construction of school facilities in districts enrolling Indian students. This year the Department of Education will spend approximately $8 million to assist in school construction projects in six districts enrolling Indian students.

The administration's budget policy for the impact aid program for fiscal year 1983 is based on the same rationale as expressed for the Indian Education Act programs. We have proposed to hold the payments made in behalf of students living on Federal property at a high level and to phase out entirely the payments made to local education agencies enrolling students whose parents work on Federal property. This determination favors those school districts which enroll Indian students.

In addition, this administration advocates legislation which creates a Foundation for Education Assistance in lieu of the Department of Education. This proposal was made to reduce the intrusion of the Federal Government in education and to return to the State and local governments and school boards the major role in making educational policy. In order to reduce the Federal role and to change directions in the involvement of the Federal Government in education, we are proposing that some of our current programs be transferred to other Federal agencies.

The Department of the Interior seems to be the most logical and the most practical place to receive the Indian education programs and the Indian-related impact aid school construction program.

The Department of the Treasury seems like the most logical and appropriate place for the formula parts of the impact aid program.

May I emphasize that these plans are now in the proposal stages, and were announced as part of the 1983 budget proposal submitted to the Congress in February of this year. We have not at this time sent you a formal proposal in the form of a recommended bill bringing about these modifications in the executive branch organization.

My colleagues and I will be glad to respond to any questions you have.

Mr. **Woodcock** [acting chairman]. Thank you. I have reassumed the Chair.

Let me ask you first, regarding the administration's proposed transfer of the Indian Education Act programs to the Department of the Interior, Bureau of Indian Affairs, will the transfer of the program be done as part of a proposed dissolution of the Department of Education, or will the transfer be done regardless of the dissolution of the Department of Education?

Ms. **Benish**. The proposed transfer to the Department of the Interior is part of the overall plan for the Foundation for Education Assistance.

Mr. **Woodcock**. You do no expect to do this without the plan being submitted?

Ms. **Benish**. There are no plans at the present time to transfer the Indian education programs separately should the foundation proposal not be enacted.

Mr. **Woodcock**. The Department of Education requested a recission of $6 million appropriated for fiscal year 1982, which was not approved. How will this money be redistributed for use for the Indian Education Act?

Ms. **Benish**. This money will be restored in the same categories from which it was taken.

Mr. **Woodcock**. It is our understanding that as part of the budget cuts, the Department of Education, like most agencies, has taken a reduction in force and a shift among the personnel. How have these actions affected your office's ability to function?

Ms. **Benish**. Initially, there was a turnover and of course there was a need for some additional training on the part of the staff in specific areas as they related to the Indian education program. However, in general, we are very pleased with the quality of work being completed by the staff, and we believe the program is operating very smoothly.

Mr. **Woodcock**. Could I ask Mr. Ryan to respond to that?

Ms. **Benish**. Certainly.

Mr. **Ryan**. The Indian education program, as you know, is a part of the Office of Elementary and Secondary Education. The office, as a whole, was the focus of the reduction in force as a result of adjusting to the Education Consolidation Improvement Act. As a consequence, the RIF was not aimed at the Indian education program, but it was officewide.

We suffered approximately an 85-percent impact in terms of new personnel. In spite of the fact that sounds like a disaster, my personal feeling is that I am very happy with the opportunity to have some new people working in there whose heads are not filled with a lot of ideas about what Indian education should be. That is to say that there can be a positive side to the reduction in force by getting employees who are new and who, in a way, are not experts in the field of Indian education. I think this is particularly important because the basic idea is that the Indian parents and LEA's in our entitlement program decide what the substantive content of education is, not that Federal bureaucrats prescribe what type of program ought to be accomplished at some particular place.

So on the whole, considering the fact that the impact was substantial in terms of new people coming in, I do not think it has impaired our operation significantly.

Mr. WOODCOCK. Let me ask you this. Could you tell me, especially Mr. Ryan, how long it has taken to review grant applications and to award grants? How does this timeframe compare with previous timeframes under the old guard?

Mr. RYAN. Each program officer in the Indian Education program spends a minimum of about 423 hours reviewing grant applications, and an additional 50 hours in preparing the grant awards. That period of time is about the same as it was for the people before.

I think what you really are interested in is what is the effect of the impact on our meeting the new deadlines. I brought some information on that. Generally, it has not been too bad. We are about a couple of weeks late, but we have gotten all of the entitlement grants out. I think they went in the mail this week. We will be a couple of weeks late in processing the discretionary part of A, B, and C. We fully expect—in the longer statement that was provided for the record, it states that we hope to have it done by mid-June. However, I believe I will have it out before the end of this month. I think they will have negotiated the awards within the third quarter.

The Secretary of the Department of Education is very concerned that we get our money out within those deadlines. Even though we have had an impact and we have had to suffer some confusion, these people are pretty energetic and enthusiastic. They have been working weekends. I think we are going to make it all right.

Ms. BENISH. In terms of the past, there really is no discernible difference between last year's schedule and this year's schedule for getting the grants awarded.

Mr. WOODCOCK. Do you feel you had enough time to train your new personnel? Your answers indicate you have not lost any time because of that. How have you managed to train them?

Mr. RYAN. One of the important things is that we knew we were going to have a reduction in force. We were required to develop training plans beforehand in anticipation. It was a little difficult to do. This is because you think, what shall I do? Send him to school for a while? Then if you do that, who does the work? So I took a look at what work needed to be done. When they show up on the beachhead let's show them that, and we will set up a buddy system and go through the regulations and all of the programs.

When the people landed, so to speak, what we did was, with the ones who had remained, we had already prepared all of the documents in a kind of training manual or a training format to get them on track as quickly as possible. For a while, I was acting less as a director and more as a foreman. I was not trusting the regular structure.

On the whole, for the process that we were going through, the new people did not turn out to be a major problem. However, the training program is not a 90-day phenomenon. We plan to continue training aspects throughout the year for probably another 12 months.

Mr. **Woodcock**. Let me ask you then, in the same context, how many grant proposals is each officer now handling, and how does that compare to the overall ratio within the Department of Education?

Mr. **Ryan**. In fiscal year 1982, we received 1,206 part A applications. In the last fiscal year, we received about 1,063. Of these applications in 1982, it will work out to about 106 applications per project officer.

There are not any studies on the subject of this kind of workload because it depends upon the nature of the programs. You have to look specifically at other discretionary types of similar programs and make comparisons.

The best that we could do in time to respond to this question was to take a look at the migrant education program and the national diffusion network. In those programs respectively, project officers managed 8 and 9 projects in contrast to our officers handling 106. So I would say that they handle a significant number, and I feel that they are doing a good job.

Mr. **Woodcock**. I would like to raise a specific question here which is particularly of interest to the chairman of the committee, Senator Cohen, and to every member of the Maine delegation. I would like to, if you would, have you explain for the record the controversy surrounding the impact aid problem for the Maine Indian school districts, and if you could, tell me if a decision has been reached in this regard and what that decision is.

Ms. **Benish**. I think Mr. Stormer is going to address your question.

Mr. **Woodcock**. OK.

Mr. **Stormer**. There are three school districts in Maine serving children residing on Indian lands. From the period 1977 through 1980, impact aid payments were made on behalf of these children. Commencing in school year 1980–81, the State Department of Education failed to have an appropriation that would provide State assistance to these three school entities. As a consequence, the question arose at to whether or not we would be able to provide Public Law 874 funds. The question was whether free public education was being offered to these children residing on Indian lands in the three school communities.

In the absence of a State appropriation and with the possibility of 874 funds not being provided, the Bureau of Indian Affairs entered into a contract which purportedly paid 100 percent of the cost of the education for these students.

We in turn had, by virtue of a mass processing of preliminary payments in the fall of 1980, made a payment to these school systems at a rate of 75 percent of their preceding year's entitlement for payment. Subsequently the State did come in with an appropriation.

The question then came up to us if we, under Public Law 874, made a payment would we be duplicating payment for these children inasmuch as the cost of education was being completely borne at that point by the Bureau of Indian Affairs and the State?

A decision has been made this week that there is no prohibition as far as 874 is concerned as to duplicating payments made by the Bureau of Indian Affairs. The remainder of the payments for 1981 will be forthcoming shortly and we will process the payments for 1982 as rapidly as we can.

Mr. **Woodcock**. Does this include high school and elementary?

Mr. **Stormer**. It includes high school and elementary for the 1980-81 school year. The applications at present for the 1982 school year are for secondary schoolchildren.

Mr. **Woodcock**. I appreciate your answer. Thank you.

We lived with the Maine Indian claim problem for 10 years in the State of Maine, and it is a problem that grew at times to be quite divisive and controversial. We are all interested in seeing that the harmony that has been visited on the State since the implementation of the settlement continues.

I will return to my previous line of questioning. Has the 506 form, which is the eligibility verification form, been changed in any way, and if so, how?

Mr. **Ryan**. The 506 form as a form has not been changed. What we are actively requiring in terms of what is on that form administratively has changed somewhat.

The regulations require that the form be completed, but the regulations do not state what a completed form is. We believe that the last administration was a little hyperactive in requiring a data questionnaire as a form of eligibility.

What we intend to do as a matter of the deregulation process is to spell out very clearly what the substantive content of the statutory definition of Indian is, and accordingly, to follow through by publishing the proper form.

Since last September we have been accepting evidences that are not exactly according to our form, for example, Johnson-O'Malley or Federal Court of Claims judgment rules on people. Those are significant Federal evidences that someone is an Indian, to accept these, rather than to require a punctiliousness in dotting every I, crossing every T, and swearing every oath.

The eligibility question obviously is important because people do not want to be spending money serving children who do not qualify. But at the same time, if the administrative activity is focused so onesidedly on a form, a lot of other things have to be sacrificed.

So at this particular point what we are thinking about doing is developing a draft regulation on the subject of the definition. But whether or not we go through with that really depends a lot on what Congress thinks about it and what Congress may do with respect to the definition of Indian study which will be subsequently presented.

It is getting the cart a little before the horse for the administration to be defining something that Congress wanted to study and then deliberate on. We do not intend to do that, but if we continue to face the difficulties in provisos that we are getting with respect to defining Indians and forms, then we will be pushed to have to do that, and that is clearly in the domain of Congress.

Mr. **Woodcock**. Has your office been coordinating with other offices within the Department of Education, the title I and impact aid, personnel, and the Bureau of Indian Affairs, regarding educational services for Indians and the potential cuts?

Mr. **Ryan**. Yes, we have. Impact aid has provided us with a list of the schools they fund, and not all of the schools they fund do we fund. I have done a mailing to those eligible LEA's that are not funded as a matter for the resource and evaluation center evaluation which we hope to start in about a month. We will be taking a look at who uses the centers and the people who do not use them. Also we will be conducting an evaluation to take a look at those areas that are not receiving the assistance they need.

Beyond that, we had developed and sent to BIA a draft memorandum of agreement on interagency coordination when Assistant Secretary Vincent Reed was in that position, and we have never received a response from the Department of the Interior.

But there is an all-inclusive clause, clause V, of that draft which speaks to dealing with matters which have not been defined; areas for coordination.

Beyond that we have the day-to-day workings and coordination where people talk to people in the Bureau to find out who one of their grantees is, such as the American Indian Law Center. We may be funding some people who may get a law fellowship. So we do have coordination. We do have a continuing dialog.

Mr. **Woodcock**. In your day-to-day conversations with the BIA, have they indicated why they have not responded to your letter?

Mr. **Ryan**. Not as yet.

Mr. **Woodcock**. Have you asked them why they have not responded?

Mr. **Ryan**. I assumed that they had pressing matters that precluded it. They are hardworking. We have been attentive to a number of things which the Bureau is doing and in a way in which we can properly coordinate this.

One area, for example, is requiring by manual nonduplication between Johnson-O'Malley programs and our title IV programs, requiring by directive that the resource and evaluation centers, in providing technical assistance, clarify to grantees that no duplication should be made.

So there are times when things happen in another department and we try to pick up on them wherever we may. With large bureaucracies it is not always possible to know everything.

Mr. **Woodcock**. Mr. Stormer, how are you going to coordinate the closures with your impact aid program? I understand that a number of schools are going to be closing.

Mr. **Stormer**. We have heard, and there have been testimony offered, that there are some school systems that, because of reductions in the amount received for impact aid, may be considering shortening their educational term or closing during the fiscal years 1983 or 1984. Any information which we would receive in terms of the closure of public schools, I am sure, would also be sent by us to the Bureau of Indian Affairs as would the Bureau notify us of any closure of a public school system.

Mr. **Woodcock**. How about the closure of a BIA school?

Mr. **Stormer**. I am reasonably certain that the Bureau would advise us of the closures. I understand the closure of some Bureau of Indian Affairs boarding schools would not necessarily impact upon the immediately adjacent public schools since some of the children who are currently in boarding schools are residents of States other than the one the school is located in. A particular closure may not have a dramatic and sudden impact upon the immediately adjacent local education agency.

Mr. **Woodcock**. Do you know that for certain one way or the other?

Mr. **Stormer**. No, I do not know that for certain.

Mr. **Woodcock**. How would you handle it if it turned out to have an impact?

Mr. **Stormer**. Under the current formula that has been proposed, the public school system is entitled to receive in 1983, 80 percent of the amount of money they would have received in 1982.

Mr. **Woodcock**. Mr. Ryan, how do you personally feel about the proposed transfer of the Indian Education Act programs to the Department of the Interior, Bureau of Indian Affairs?

Mr. **Ryan**. My sensitivity is that a lot of people are responding to the issue of the transfer. What they are really responding to I think is something else. One of the problems in Indian education programs has been their discretionary nature. There is a fear on the part of everyone that discretion can always be used against them. Some of that fear has to do with whoever may have control of the discretionary programs.

My personal feeling is that if you can control discretion, if you can make it clear, if you can run a fair program, it does not make any difference where you put it because people can expect fairness from it. I think that if we can have a very good, fair, Indian education program, when transferred to the Bureau of Indian Affairs, it would not cause a great deal of disruption to anyone's expectations.

The real issue is to substantively incorporate that fairness element into that discretionary process. I think that is what you are hearing when people testify against the transfer.

Mr. **Woodcock**. Do you have a suggestion as to how we might insure that if the transfer took effect the fairness factor would be present in the Bureau?

Mr. **Ryan**. One thing I intend to do and I am doing right now is, I am working on the application review plan, and I am developing standards for it to insure that the competitive aspect of the discretionary process is one which does not work to the advantage of anyone, any particular grantee. It works to the advantage rather of what is being proposed in terms of the law and regulation. That means giving due weight to the diversity of the constituency which our act seeks to serve. I think if that can be done, and it should be done, people can expect that fairness, and I think that their fears would be alleviated.

Mr. **Woodcock**. In the event that the programs are transferred to the Bureau of Indian Affairs, do you foresee any problems with specific constituent groups currently served by the Department of Education?

Mr. **Ryan**. In the absence of not having seen a bill, that is just too speculative even to deal with. I have no idea exactly what it would look like.

Assuming that everything were transferred over intact, I would assume that you would keep the programs operating.

Mr. Woodcock. Your office has used the regional resource centers to aid potential and current grantees and furnish information to constituents. First, let me ask you, do you feel that these centers have improved the program? Second, in what way have they improved the program?

Mr. Ryan. I think that the centers have really improved the program a lot. We have 57 employees, and we serve 80 percent of all the Indian children in this country. It is pretty hard with such a small number of employees to really be able to do that. These centers do a lot of work and help us out in many different ways that free up our project staff from having to deal with the more mundane, in some cases, and in other cases, the more important aspects of monitoring Indian education programs.

The centers, in assisting us, have conducted 210 workshops in the last year. They have had two national conferences. They have done 713 site visits. They have distributed project-oriented technical assistance guides. They have distributed almost 1,200 of them. This deals with management and project design. They also work to coordinate technical assistance which is available from more than 75 regional State education agencies.

What is the test? The test is not whether they can get all the people out there to come in and testify in favor of title IV. The test is whether or not the application is better. The test is whether or not the needs assessment is truer, and the test is whether or not the people who are conducting education programs are trying to do so in a way that they are curious about the student outcomes and the student competency that is achieved.

I think that the centers, even though they have only been in existence for a year, can do an awful lot for us in the long run and free up the staff to do the kind of work that it should be doing.

Mr. Woodcock. During this oversight hearing, testimony has been given regarding the proposed transfer of title IV to BIA. Every witness has expressed opposition to this proposal. You have just mentioned that you do not see that as being the proper test for the effectiveness of title IV. I would only say that, given the candor of the witnesses who have appeared before us, I think if title IV had been a program that had not worked you would not have heard the testimony in favor of it.

Let me ask you some follow-up questions. Are you aware of the concerns and oppositions to this proposed transfer?

Mr. Ryan. Yes.

Mr. Woodcock. How will you be responding to these concerns?

Mr. Ryan. I am responding to what I think the real concern is: a desire for fairness from the Federal Government. The way I am responding to that is I am going to develop the best discretionary grant process in this Government, and they are going to get the best treatment and the fairest treatment they can no matter where that program is.

Mr. Woodcock. Do you know if there is any consideration at this point to keeping title IV within a successor agency to the Department of Education?

Ms. Harrison. We are standing by our earlier proposal. As we indicated to you, it is a part of a larger proposal to create a Foundation for Education Assistance. So we do not think at this point we would want to retreat from that position.

Mr. WOODCOCK. Thank you very much. Your prepared statement will be entered in the hearing record at this point.

[The statement follows:]

PREPARED STATEMENT OF D. JEAN BENISH, ACTING ASSISTANT SECRETARY FOR ELEMENTARY AND SECONDARY EDUCATION, DEPARTMENT OF EDUCATION

Mr. Chairman and Members of the Committee: Thank you for inviting us here today to discuss programs that affect the education of Indians. The Department of Education currently has authority over a number of programs that benefit or have potential to benefit Indian children and adults either because of their Indian background or because they are a part of an overall population eligible for services.

Among those programs which provide direct educational services are the compensatory education programs of Chapter I of the Education Consolidation and Improvement Act, special programs for the education of the handicapped, vocational education programs, bilingual education, and financial aid for college students.

Another program, the Impact Aid Program, does not provide direct benefits, but rather supplies general funds in lieu of lost revenues to public school districts that enroll children who live on non-taxable Indian lands.

Indian Education Act

Ten years ago, the Congress passed the Indian Education Act, which authorized several programs targeted to Indian people. In the nine years since the Indian Education Act programs began, the number of Indian children and adults benefiting has almost tripled. In 1981, beneficiaries included 307,000 children and youth, 11,000 adults, and over 1,000 students in higher education programs. The beneficiaries participate regardless of whether they live on reservations, in remote rural areas, or in urban areas where the majority of Indian people now reside.

The Indian Education Act is organized into four parts; Part A is the largest. Most of the Part A funds are allocated by formula directly to public school districts, where more than 80 percent of all Indian children are educated. Projects operated with these funds must be specifically designed to meet the special educational and culturally-related academic needs of Indian children in the district and must have the involvement and approval of locally elected Indian parent committees. In fiscal year 1983, $32,241,000 is requested to support projects in about 1,100 school districts serving approximately 309,000 Indian children.

In addition to the formula program, there is a 10 percent set-aside of Part A funds to support special programs in Indian-controlled schools that are located on or near reservations. These schools are not public schools. In fiscal year 1983, $3,224,000 will support programs in 20 Indian-controlled schools, serving over 7,000 students.

In terms of scope, Part B is the most versatile of the Indian Education Act parts. Funds under Part B are awarded on a competitive basis and may go directly to Indian tribes, Indian organizations, institutions of higher education, individuals, or State and local educational agencies.

Some projects are designed to help Indian people themselves develop better solutions for persistent problems that, for years, have interfered with the education of their children. Others are designed to train Indian people for careers as classroom teachers, curriculum specialists, guidance counselors, and school administrators. Through the Indian Fellowship Program, awards are made directly to Indian students to enable them to pursue degrees in six critical professional fields. Finally, under Part B, we have a network of five regional Resource and Evaluation Centers, designed to provide expert technical assistance to grantees and to help upgrade the quality of all our Indian Education Programs.

For fiscal year 1983, $9,600,00 has been requested to support the programs authorized by Part B.

Part C of the Indian Education Act authorizes programs for Indian adults to help alleviate problems associated with illiteracy, inadequate mastery of basic academic skills, and lack of high school completion. Funds are awarded on a competitive basis and may go directly to Indian tribes, Indian organizations, Indian institutions, or State and local educational agencies. For fiscal year 1983, $3,365,000 has been requested to support an estimated 23 projects in which almost 10,000 Indian adults will participate.

Part D of the Act authorizes the establishment of an office to administer Indian Education Programs and the President's National Advisory Council on Indian Education. For fiscal year 1983, $2,494,000 has been requested for program administration and $195,000 for the National Advisory Council.

As of April 1, 1982, all discretionary continuation grants for fiscal year 1982 for Parts A, B, and C of the Indian Education Act were forwarded to Assistance Management and Procurement Services (AMPS) for negotiation. New competing applications are being processed now and, by mid-June, all applications will have been processed and forwarded to AMPS for negotiation and award.

As you know, the Administration advocates legislative action which would create a Foundation for Educational Assistance in lieu of the Department of Education. In order to establish within the Foundation an appropriate group of programs and functions, it was essential to also advocate the placement of some of the existing programs elsewhere in the Executive Branch. In keeping with this principle, we are proposing that Indian Education Programs be transferred to the Department of the Interior.

In making this proposal we are aware that the historical function of the Department of the Interior in relation to Native American populations was one of dealing primarily with tribal groups. We are also aware that the clientele served by the Indian Education Act is more broadly based and includes urban Indians and other non-tribally related Indian groups. However, our reasoning that the Bureau of Indian Affairs in the Department of Interior was a logical alternative placement for the programs authorized under the Indian Education Act still stands. Certainly, BIA will be responsive to administering these programs in a manner which is prescribed in the statutes and they will responsibly allocate the required portions of the appropriations to eligible populations, schools, and school districts regardless of their locations or relationships to tribal entities.

Impact Aid

Next, I want to address the Impact Aid Program, formally known as "School Assistance in Federally Affected Areas," or Public Law 81–874. For more than 30 years, Public Law 81–874 has been a major source of Federal funds for the basic operating costs of public schools enrolling Indian children. Under this program, eligible children are identified by their residence on Indian lands.

For the first few years of the program, Indian children benefiting from the Bureau of Indian Affairs' Johnson-O'Malley Program were not eligible under Public Law 81–874. This changed with the revised concept that Johnson-O'Malley should provide supplemental or special services, leaving Public Law 81–874 to provide basic support.

Over the past decade, the number of Indian children counted for the purposes of Impact Aid payments has grown from 62,000 to more than 98,000. In 1980–81, 698 school districts in 23 States received payments totaling $147,000,000. These figures include 8,000 handicapped children residing on Indian lands, for whom payments of $21,000,000 were made. In 1983, similar numbers of children and districts will be served with approximately $100,000,000. With the exception of payments for the handicapped, which must be used for special education programs, Impact Aid payments are usually deposited in the general revenue fund in accordance with State law and are used to meet maintenance and operational expenses for all children attending schools in the district.

Since 1974, children residing on Indian lands have been classified as "A" category children in the Impact Aid Program. All maintenance and operations funds of the Impact Aid Program will be targeted at "A" category children in Fiscal Year 1983 since they have the highest priority in the Administration's budget.

As a result of the Education Amendments of 1978, a public school district receiving Impact Aid funds for children who reside on Indian lands must develop special policies and procedures to involve Indian parents in a more active way in planning and overseeing educational programs. In addition, these policies and procedures must ensure that Indian children participate equally with non-Indian children in the district's programs. The school district is obligated to communicate these requirements to the parents of the Indian children enrolled in its schools and to the tribal leadership.

The Congress also made provisions for Indian tribes to file complaints with the Department of Education in cases where local public school districts are not complying with the law. Since this provision became effective in 1978, four hearings have been requested and, at this time, three appear to be resolved.

The 1983 budget proposes that the entire Impact Aid Program for "A" category children under Public Law 81-874 be transferred, with a budget of $275,080,000, to the Department of the Treasury.

The other portion of the Impact Aid Program that provides benefits to Indian populations is a part of the school construction program authorized by Public Law 81-815. Currently, 75 school districts have submitted applications for construction funds. However, due to limitations of appropriations, the majority have not been funded. For 1983, no funds have been requested because of severe budget restraints and the postponable nature of construction programs. The construction authority under the Impact Aid Program for providing Federal financial assistance to districts enrolling large numbers of Indian children is also recommended for transfer to the Department of the Interior.

Mr. Chairman, the programs I have described today are very important to the education of Indian people. If you have any questions, my colleagues and I will be happy to respond.

Mr. WOODCOCK. I have been informed that Congressman Williams is on his way and should be arriving post-haste. If I could at this point, I would like to call a short recess, subject to the recall of Congressman Williams.

Thank you.

[Recess taken.]

Mr. WOODCOCK. I have been advised by the staff that Mr. Williams will be unable to make it. Therefore, I would like to thank you all for your patience and your endurance. I apologize for the lengthy delay. It has been a test for us all, I guess. We do appreciate your coming here and we do appreciate your stamina. Thank you.

The hearing is adjourned.

[Whereupon, at 6 p.m., the hearing was adjourned.]

APPENDIX

Additional Material Submitted for the Record

COLORADO RIVER INDIAN TRIBES
Colorado River Indian Reservation
Route 1, Box 23-B
Telephone 602-669-9211
PARKER, ARIZONA 85344

In reply,
refer to: ______________

May 27, 1982

Honorable William S. Cohen, Chairman
Senate Select Committee on Indian Affairs
6317 Dirksen Senate Office Building
Washington, D.C. 20510

Dear Chairman Cohen:

Enclosed are two (2) testimonies that the Colorado River Indian Tribes desired to give at the Oversight Hearing on Indian Education scheduled for May 18-19, 1982 in Washington, D.C. The Tribes were unable to attend that Hearing and planned to present written testimony. It is being presented at this time and we are asking your approval for its acceptance.

This subject is very important to aid in improving the scholastic standing of our Indian students. We ask that you receive our testimony and act affirmatively on our requests. Thank you for your support.

Sincerely yours,

COLORADO RIVER INDIAN TRIBES

Harry Laffoon

ACTING

Anthony Drennan, Sr.,
Chairman, Tribal Council

Encls.

cc: Barry Goldwater, Senator, and member of Committee
337 Russell Senate Office Building
Washington, D.C. 20510

Testimony on: IMPACT AID AND OTHER EDUCATION PROGRAMS
OF IMPORTANCE FOR INDIAN PEOPLE

Submitted by: COLORADO RIVER INDIAN TRIBES
PARKER, ARIZONA

for

Senate Select Committee on Indian
Affairs Oversight Hearing on Indian
Education, Washington, D. C.
May 18-19, 1982

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C. The Effect of the Trust Responsibility on the Secretary's Approval of State Equalization Plans Under 20 U. S. C. §240 (d) . . . .

D. Resolution, Colorado River Indian Tribes, March 1982 . . . . .

TESTIMONY BEFORE THE SENATE SELECT COMMITTEE ON INDIAN AFFAIRS OVERSIGHT HEARING ON INDIAN EDUCATION, WASHINGTON, D.C., MAY 18-19, 1982

Submitted by COLORADO RIVER INDIAN TRIBES

Introduction

The Colorado River Indian Reservation, created by Executive Order in 1865, is located in Southwestern Arizona with a portion of the reservation bordering California, along the Colorado River. Eighty (80%) percent of the 269,000 acre reservation is located in Arizona. The local public schools which provide educational services to the Indian children are also located in Arizona. These schools receive Impact Aid monies for children living on tax-exempt Indian lands in order "to help meet general educational costs involved in providing education to these children."1/

Parker Unified School District No. 27, Parker, Arizona, located on and within the exterior boundaries of the Colorado River Indian Reservation, consists of three

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1/ 1953 United States Code Congressional and Administrative News 2330.

public elementary schools and one public high school. The total population of the district is approximately 1,900 students. Approximately twenty-eight (28%) percent have been identified as Indian Students. The remainder of the non-Indian students live on or adjacent to the reservation. A 1980 United States Census of Population and Housing reports that there are 1,941 Indians and 6,640 non-Indians living on the Arizona portion of the Colorado River Indian Reservation.[2/] Fifty-seven (57%) percent of the Indian population fall within the age category of 17 years or younger. Of the Indian students of school age, ninety-six (96%) percent attend the local public schools. The remaining four (4%) percent attend schools away from the area, such as Bureau of Indian Affairs boarding schools, private institutions and schools for children with exceptional educational needs. The school district employs one-hundred twenty-two (122) certified staff which is limited to administrators, teachers and counselors. Six employees or five (5%) percent of the certified staff have been identified as Indian. Two are members of the Colorado River Indian Tribes. All six Indian employees are employed as teachers in District No. 27.

2/ CENSUS OF POPULATION AND HOUSING, 1980: PUBLIC LAW 94-171 POPULATION COUNTS. See attached.

Cost Factors which Affect Local Public Schools

The reservation of the Colorado River Indian Tribes, like most tribal reservation in the State of Arizona is located in an isolated area. Parker Unified School District No. 27, which maintains its district offices in Parker, Arizona, is faced with similar cost factors found in rural schools on reservations in Arizona; substantially higher mileage rates, lower expenditures per pupil and higher student/teacher ratios. The district must presently provide transportation to students living as far as fifty (50) miles from the school of enrollment; 100 miles of travel for the student each day school is in session and 200 miles travel for the district bus to transport the student. "Transporting students to school, often from great distances on unimproved roads, constitutes a major cost factor for both maintenance and operation in reservation schools.[3]

Additional cost factors faced by the local school district which serves our Indian children and other children residing on the reservation, are goods and services not readily available in the area, requiring the district to pay the higher costs for supplies and services from distant markets. Some services are obtained from Phoenix, Arizona, located approximately 190 miles from Parker.

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[3] Testimony of Arizona Indian Education Project before House Appropriations Subcommittee on Interior in support of Federal Impact Aid Program (June 1981), p.10. See attached.

Federal Trust Responsibility for Indian Education

"Historically, education has been consistent with both separatist and assimilationist strains of federal Indian policy. Reservation policy involved the attempt to confine nomadic tribes to a clearly defined area of land. The need to reeducate Indian People for an agrarian lifestyle was recognized. Assimilation required the civilizing influence of an English grammar school education. Self-determination requires enough understanding of American society to make choices and enough skills to achieve the chosen objectives. Education has long been a necessary part of federal Indian policy."[4/]

By the actions of Congress in 1953 to reserve a supplementary program administered by the BIA to pay for the additional costs incurred by public school in educating of Indian students, the federal government has recognized its trust responsibility to Indian people. This provision was allowed even though Indian students were included in the Impact Aid program. In 1978, Congress through P.L. 95-561, increased Indian entitlement under the Impact Aid program to cover all basic education costs and specified that all other programs, including JOM, would be

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[4/] The Effect of the Trust Responsibility on the Secretary's Approval of State Equalization Plans under 20 U. S. C. §240 (d), p. 9. See attached.

supplemental. In addition, Congress further provided for procedures that would assure Indian parental and tribal involvement in a district's use of Impact Aid funds. Under the provisions of P. L. 95-561, Congress, in recognition of the higher costs incurred by Indian public school districts[5] increased the Impact Aid funding for Indian students while at the same time requiring the districts to establish procedures to allow Indian parents and tribes a voice in how the funds would be used to benefit Indian students. These procedures were designed to recognize the special relationship between Indian tribes and the United States. The Impact Aid program, as it relates to Indian students, recognizes the role of the Federal Government in dealing with Indian tribes and Indian students, while at the same time acknowledging the country's traditional preference for state supported public schools. The changes in 1978 resulted in public school districts receiving needed money to provide basic education for Indian students in a context that acknowledged the special relationship between Indian nations and the United States.

The Impact Aid program was identified by the Presidential Commission on Impact Aid, as the only significant effort of the federal government to fulfill trust responsibility

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5/ House Report No. 95-1137, May 11, 1978, 1978 U.S. Code Cong. & Admin. News, pp. 5082-83.

and treaty obligations related to education of Native American students in public schools.

The Indian tribes who are members of the National Congress of American Indians have taken the position that education is a trust responsibility of the United States Government. Many of the Tribes, including Colorado River Indian Tribes, have opposed the shifting of a recognized responsibility to support Indian education from the federal to the state and local levels. Congressional legislation such as the Elementary and Secondary Education Consolidation Act of 1981, does not provide that block grants in education go directly to Indian tribes. The problem of "the states' antipathy toward Indian tribes, is as old as our society's relationship with Indian people. The existence of semi-sovereign governments within a state's borders has been an irritant to state governments which has not ordinarily produced the most high minded state action."6/ Although the political and governmental relations between Tribes and States has improved, "there still remains a degree of animosity in their relations. In the field of education, the animosity surfaces in school finance."7/ In the past, if state governments were not willing to assume responsibility for the education of Indian students, what is the guarantee that state governments will extend to Indian tribes, funds from block grants in education

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6/ Testimony of Arizona Indian Education Project before House Appropriations Subcommittee on Interior in support of Federal Impact Aid program (June 1981) p. 17. See attached.

7/ See attached testimony of Arizona Indian Education Project, p. 17.

Although it was not devised to fulfill the federal responsibility to provide education for Native Americans, the Impact Aid program has evolved into an effective means of fulfilling federal responsibility while improving state supported public education in the field of Indian education.

Need for Continued Funding/Need for Protecting the Congressional Purpose Behind Impact Aid for Indian Students

The Education Amendment of 1974, Public Law 93-380, included two revisions of Impact Aid which directly affected public schools educating children residing on Indian lands. These amendments allowed any children who resided on Indian lands to be counted as the "A" category for full entitlement, regardless of where their parents were employed. The amendments also provided an additional fifty (50) percent of the per pupil entitlement amount for Indian children receiving special educational services. Both important changes took effect in 1976.

The students who are eligible to be counted by public schools requesting Impact Aid assistance are grouped into two distinct classifications. The first classification referred to as "A" children involves students whose parents live on and work on federally owned or controlled property which is tax-exempt. Indian students whose parents live on federally owned or controlled tax-exempt property, regardless of where they work, are counted as "A" children. The second classification referred to as "B" children involves students whose parents live on but work off federally owned or controlled property which is tax-exempt.

Many of the recent attacks on Impact Aid have focused on type "B" students, whose parents live off federally owned or controlled property which is tax-exempt but work on federally owned or controlled property. The parents of "B" students may contribute to a school district's tax base through ownership of taxable property and real property.

Parker Unified School District No. 27, which provides educational services for our Indian children who are categorized as "A" students, is within the exterior boundaries of the Colorado River Indian Reservation. One of the elementary schools, LePera School, is located in the southern part of the reservation. Since the initial construction of that school, the Parker Unified School District No. 27 has had a lease agreement with the Colorado River Indian Tribes for use of lands upon which the school is located. In addition to that lease, the Tribes entered into a lease agreement with District No. 27 to provide them with the required lands for expansion of the high school.

The town of Parker, which is located on the reservation, is a townsite of one (1) square mile. Approximately 2/3 of the town lots are fee lands and may contribute to the school district's tax base. The remaining 1/3 lots, are tribally owned and are federally managed. Parker is surrounded by tribal lands which restrict the expansion of the townsite and the basis for an increased tax basis. Fee lands within the local school district for assessed porperty tax purposes are simply quite limited due to the federal lands that surround the town of Parker.

Since the Impact Aid monies received by the Parker School District is the basis for Indian public school education for our students, it is imperative that Impact Aid be continued to assist the public schools and Tribes in meeting the educational needs of the Indian children. A recent education needs assessment conducted by the Tribe on the Colorado River Reservation reported that fifty (50) percent of the Indian population did not graduate from high school. Of the remaining fifty (50) percent, 37% received a high school diploma, 7% received a GED, 4% received an Associate Degree, 1% earned a degree beyond the Bachelors level. Based on those figures, it is apparent that more than ever, our Indian students need more opportunities for a public school education.

Conclusion

The town of Parker and local schools located on or within the exterior boundaries of our reservation have only a limited amount of taxable property from which the taxpayers account for their assessed valuations. Also, our Indian students in the Parker School District comprise approximately twenty-eight (28%) percent of the district population, making our district a "Super Impact" district. Because Federal Impact Aid form the financial basis for public school survival on our reservation and is the basis of Indian public education for our Indian students, its continuation is imperative to the right of Indian students to receive free public education. A right afforded to every non-Indian American child.

The Tribal Council of the Colorado River Indian Tribes approved a resolution[8] in March of 1982 to declare their unequivocal support for the continued provision of Federal Impact Aid to state public school districts with large numbers of students residing on Indian reservations at a level adequate to meet the budgetary needs of these affected school districts.

8/ See attached resolution from the Colorado River Indian Tribes.

-ATTACHMENT A-

Table III

ARIZONA INDIAN POPULATIONS

ON AND OFF RESERVATIONS

1980 CENSUS (APRIL 1, 1980)

	TOTAL		INDIAN	
		Reservation	Reservation Status	
Area/Reservation	Population	Population	On	Off
ARIZONA	2,717,866	129,152	114,227	38,630
Apache County	52,083	41,178	38,504	526
Fort Apache		368	100	
Navajo		40,810	38,404	
Cochise County	86,717	0	0	497
Coconino County	74,947	17,978	16,908	4,044
Havasupai		282	267	
Hopi		1,347	1,325	
Hualapai		8	8	
Kaibab		0	0	
Navajo		16,341	15,308	
Gila County	37,080	4,927	4,716	369
Fort Apache		1,242	1,223	
Payson Community of Yavapai-Apache		0	0	
San Carlos		3,685	3,493	
Graham County	22,862	2,419	2,382	362
San Carlos		2,419	2,382	
Greenlee County	11,406	0	0	235
Maricopa County	1,508,030	7,110	5,532	17,368
Fort McDowell		349	345	
Gila Bend		353	349	
Gila River		2,195	2,090	
Papago		124	124	
Salt River		4,089	2,624	
Mohave County	55,693	1,191	1,016	454
Fort Mojave		183	127	
Hualapai		835	796	
Kaibab		173	93	
Navajo County	67,709	30,735	28,924	3,235
Fort Apache		6,164	5,558	
Hopi		5,549	5,267	
Navajo		19,022	18,099	
Pima County	531,263	7,844	7,566	7,361
Papago		6,436	6,193	
Pascua Yaqui		533	522	
San Xavier		875	851	

Table III (Cont'd)

ARIZONA INDIAN POPULATIONS
ON AND OFF RESERVATIONS
1980 CENSUS (APRIL 1, 1980)

Area/Reservation	TOTAL		INDIAN Reservation Status	
	Population	Reservation Population	On	Off
Pinal County	90,918	6,258	6,008	2,491
Gila River		5,250	5,023	
Maricopa (Ak-Chin)		397	375	
Papago		611	610	
San Carlos		0	0	
Santa Cruz County	20,459	0	0	57
Yavapai County	68,145	282	244	761
Camp Verde		200	173	
Hualapai		6	5	
Yavapai		76	66	
Yuma County	90,554	9,230	2,427	820
Cocopah		355	349	
Colorado River		6,640	1,941	
Fort Yuma		2,235	137	
District III	262,884	90,173	84,580	8,616
District IV	146,247	10,421	3,443	1,274
District V	127,998	11,185	10,724	2,860
District VI	141,444	2,419	2,382	1,151

SOURCE: CENSUS OF POPULATION AND HOUSING, 1980: PUBLIC LAW 94-171 POPULATION COUNTS (machine-readable data file) Prepared by the Bureau of the Census, Washington: The Bureau (producer and distributor), 1981.

Tables prepared by the Arizona State Data Center, Population Statistics Unit, Office of Data Administration, Arizona Department of Economic Security, May 6, 1981.

-ATTACHMENT B-

TESTIMONY BEFORE THE HOUSE APPROPRIATIONS SUBCOMMITTEE ON INTERIOR

Submitted by Robert C. Ericson, Attorney for the
Arizona Indian Education Project

I. Introduction

The Arizona Indian Education Project, on behalf of Arizona public school districts located on Indian reservations in the State of Arizona,[1] offers this testimony in support of continued funding for the Federal Impact Aid Program (P. L. 81-874) in the fervent hope that the Committee will recognize the importance and utility of this program for the public school education of Indian students. Recent debate in Congress and in the media has implied that Impact Aid is a "boondoggle" for undeserving districts. At this time of budget-cutting and fiscal austerity in the public sector, it is important to understand that Impact Aid, far from being a boondoggle, constitutes a needed safety net for many school districts, especially those educating students on the Nation's Indian reservations. Public school districts with predominantly Indian enrollments stand to lose considerable funding for special programs for Indian students in any event, and major cuts in impact aid will seriously jeopardize the financial viability of these districts.

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[1] Ganado Elementary District No. 19, Ganado High School District No. 20, Puerco Elementary District No. 18, Window Rock Unified District, Kayenta Unified District, Tuba City Unified, Chinle Unified (Navajo Reservation); Baboquivari High School District, Indian Oasis Elementary District (Papago Reservation); Sacaton Elementary District (Gila River Reservation); Whiteriver Unified District (White Mountain Apache Reservation); Rice Elementary District (San Carlos Apache Reservation).

In addition to being needed, Impact Aid is a program uniquely tailored to the historical and political underpinnings of our society. We are at a time in our history when we are called upon to return to the federalism the founding fathers labored to create and to refresh the traditional themes of local control and responsibility. The Impact Aid program, especially as it relates to Indian students, offers a sound example of responsible federalism in action; it recognizes the historic and legal role of the National Government in dealing with Indian Tribes and Indian people while at the same time acknowledging the traditional preference in this country for state supported public schools. In addition, the Impact Aid program provides local school boards needed federal support with minimal bureaucratic interference and thereby enhances responsible local decisionmaking. If we are to be true to our historical and political lights, we can ill-afford to discount the importance of such a program of shared federal, state, and local responsibility.

The following discussion provides: (1) a brief history of the Impact Aid program, (2) a statement of the need for continued funding of the program in public schools in Indian reservations, and (3) the particular importance of preserving the congressional purpose behind Indian impact aid. The discussion is presented in hopes that the Committee will see fit to preserve and protect a valuable, indeed indispensable program.

II. THE HISTORY AND PURPOSE OF FEDERAL IMPACT AID

In 1950, Congress established a program to aid school districts which were "impacted" by the presence of the federal government in their areas. An impacted school district initially was one which found itself educating an influx of federal dependents because of its proximity to federal military or civilian facilities. This influx increased school enrollment and the concomitant cost of providing educational programs. At the same time, the very federal presence that created the influx of students limited the local tax base available for raising the funds necessary to meet the increased cost, because the federal property acquired for the facility was exempt from local taxation. The 81st Congress recognized the inequities of this situation and sought to ameliorate the burden on impacted districts by providing federal monetary assistance in proportion to the lost tax base.

The congressional vehicle for this federal monetary assistance was Public Law 81-874, a measure designed to provide that "...the Federal Government shall pay to each local educational agency which furnishes education to children residing on Federal property an amount per child roughly equivalent to the amount per child which other property owners in comparable communities pay toward the cost of educating children." Senate Report No. 2458, August 29, 1950, 81 U.S. Code Cong. Service, p. 4014, 4015. In essence, P.L.

81-874 represents a federal per capita supplement to local districts to enable them adequately to educate federally connected students.

One of the key features of the impact aid program has always been Congress' willingness to allow local school districts to use the money it provides without generating new levels of state and federal bureaucracy to administer the program. The Impact Aid program has prospered under this wise decision. At the federal level, the program incurs few administrative costs and operates with a minimum of paperwork. At the state level, few precious state financial resources are consigned to the program's administration. At the local level, the funds a district receives may be treated within the normal budgeting process that school board members are familiar with, and a district is not forced to retain legions of specialists to oversee its decisionmaking on use of the funds. In essence, the Impact Aid program assures that federal dollars are used to meet local needs without resort to instruction from afar as to what those local needs may be.

The absence of interposed bureaucracies administering the funds is particularly important to reservation public school districts. The trust status of reservation land and its corrolative tax exemption all but eliminates the tax base and bonding capacity of most of these districts, so the need for basic financial resources must be satisfied from funds coming from outside the district. The more administrative costs incurred prior to a district's receipt of the funds, the greater the erosion of the district's already precarious financial base. The Impact Aid funds districts receive are basically the funds Congress appropriates. This unique situation contrasts with many Indian education programs such as the Johnson-O'Malley program, because, unlike JOM, Impact Aid has not engendered the ever-increasing Bureau of Indian Affairs' cost of administration which continually reduces the efficacy of the JOM program to Indian students.

The one major "string" Congress has attached to Impact Aid for Indian students is designed to assure Indian parental and Indian tribal involvement in a district's use of Impact Aid funds. Under the provisions of P.L. 95-561, Congress increased the Impact Aid funding for Indian students in recognition of the higher costs incurred by Indian public school districts[2] and at the same time Congress required the districts to establish procedures to allow Indian parents and tribes a say in how the funds would be used to benefit Indian students. These procedures were designed to recognize the special relationship between Indian tribes and the United States. 20 U.S. §240(b)3(F). This "string", far from being a burdensome federal intrusion, constituted a sound congressional policymaking decision which has enhanced the financial situation of public school districts while at the same time reinforcing the federal-Indian trust relationship and enhancing responsible local school government.

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[2] House Report No. 95-1137, May 11, 1978, 1978 U.S. Code Cong. & Admin News, pp. 5082-83.

The development of the Impact Aid has been a bright spot in the otherwise rather dark history of Indian education. Although there have been other federal programs created to assist school districts in educating Indian children, only the federal Impact Aid program has provided a regular source of funding for operating and maintaining public schools on Indian reservations. The Impact Aid program recognizes both the fact that local people can and will make decisions consistent with quality education and that they will be sensitive to federal policy on Indian education. The program has thus assisted local governments and Congress in meeting their respective responsibilities. In fact, the Presidential Commission on Impact Aid recently identified the Impact Aid program as the only significant effort of the federal government to fulfill trust responsibility and treaty obligations related to education of Native American students in public schools.

III. THE NEED FOR CONTINUED FUNDING

Traditionally, two types of federally affected public school districts - those which educate Indian students and military dependents - have relied most heavily on Impact Aid. In many ways these districts face the same problems, but all too often the districts educating Indian students have been the poor relations in a program assumed by many both inside and outside Congress to be basically designed to assure our servicemen and servicewoman could count on quality educations for their children. At this time of re-examination of priorities, districts on Indian reservations know Congress' need for candid analysis of the essential needs to be met under the program. In the past Indian public school districts have relied on the political strength of other districts to keep Impact Aid alive, and in so doing they have run the risk that they would share in the consequences should Congress find weaknesses in the program as a whole.

We cannot candidly represent to the Committee that Impact Aid is a perfect program, and many of the recent attacks on Impact Aid have pointed out problems. Both the Administration and members of Congress have questioned the various categories of students covered by the program. These questions usually focus on what are commonly referred to as "B Students", those students whose parents, while connected with the federal government, do not live on federal land. The parents of "B Students" may thus contribute to a school district's tax base through ownership of taxable personal and real property.

The presence of these students may not necessarily affect a district in any greater degree than do students which are not federally-connected at all. Districts which receive Impact Aid for "B Students" seemingly receive a federal windfall that is not tied to a corresponding local burden resulting from a lost tax base. While accepting that districts receiving "B Student" Impact Aid do need this money, it is understandable that cuts are being proposed in this category of Impact Aid.

Indian students living on reservation land, however, are defined as "A Students" under the Impact Aid program. Indian Students' residence on Indian land creates many of that military dependents living on bases create for military impacted public schools. At the same time, Indian reservations do not correspondingly benefit public school districts, as do military bases, by increasing the valuation of non-exempt land around the base. Furthermore, Indian public education and reservation life generate cost factors not faced by districts educating military dependents residing on military bases.

The tax base problems for districts educating military "A Students" and Indian students are striking. In stressing the priority for school districts serving military "A Students" in 1978, Congress noted:

> "In general, such districts have substantially higher millage rates, lower expenditures per pupil and higher student/teacher ratios".[3/]

Prior to 1978, when Congress also increased the funding for Indian impacted districts, many of the same problems were faced by reservation districts. The problems themselves arise out of the tax consequences of the federal connection and residence of both military and Indian "A" Students.

3/ House Rep. No. 95-1137, May 11, 1978, in 1978 U.S. Code Cong. & Admin. News, at p. 5072.

First, the Soldiers and Sailors Relief Act removes income tax and personal property tax as available local revenue for military impacted districts, because the Act allows servicemen to claim their home states as their legal residences. Federal caselaw similarly exempts Indian income and property from local taxation.[4] Second, states cannot charge sales taxes on purchases made by military personnel in business establishments on military bases. Indian purchases at federally regulated business establishments on reservations are similarly exempt from sales taxes.[5]

By depriving local schools of the personal and real property taxes that are part and parcel of school finance in most states, federal connection creates a basic problem for districts serving military and Indian A students. Furthermore, loss of income and sales tax revenues due to federal connection often causes state legislatures to be less than sympathetic to the needs of districts serving Indian and military students. Recent moves in Florida, Virginia and North Carolina to charge tuition for military students reflect this state attitude. In Arizona and New Mexico, state school finance plans have consciously ignored cost factors in reservation education despite pleas from reservation districts that the plans would result in financial disaster for the districts.[6]

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[4] McClanahan v. Arizona State Tax Comm'n, 411 U.S. 164 (1973); Moe v. Confederated Salish and Kootcnai Tribes, 424 U.S. 463 (1976).

[5] Warren Trading Post vs. Ariz. Tax Comm'n, 380 U.S. 685 (1965).

Although they share many of the tax base problems faced by military districts, reservation districts face costs beyond those incurred by the military districts. Indian reservations, sadly, are among the most economically deprived and undeveloped areas in this country. While tribes strive to improve their economies, the simple fact is that goods and services are not yet readily available and school districts must pay the higher costs incident to ordering supplies and services from distant markets. Many maintenance services, readily available in urban centers, must be provided by reservation districts themselves at great cost. Housing on most reservations is both inadequate and scarce, so reservation districts bear the cost of building and maintaining housing for many of their teachers and administrators. Transporting students to school, often for great distances on unimproved roads, constitutes a major cost factor for both maintenance and operation in reservation schools. On top of these costs, reservation schools educate children who come to school not only unable to speak English but also having less than a rudimentary understanding of the non-Indian culture they are about to enter as an all but inescapable consequence of embarking on a public school education.

6/ As a direct result of the New Mexico plan, public schools on the Navajo Reservation (Gallup-McKinley School District) went from a competitive teacher salary scale to the lowest scale in the State in two years.

Facing these built-in costs of education, reservation districts have yet another problem rarely uncountered by military districts. While a district serving a military base has other property within the district that is not tax-exempt, many reservation districts have as few as one or two taxpayers accounting for their assessed valuation. Furthermore, where military bases tend to increase property values around the base, the land around reservations is among the least desirable residential and commercial property in the country.

Given the backdrop of limited tax base and high costs, reservation districts' reliance on Impact Aid is understandable, but the level of reliance is nonetheless staggering. Public school districts serving Indian students number 722 with an Indian student count of 93,981. Overall, Impact Aid provides an average of 11% of the basic budgets in these districts. In 128 of these districts, Impact Aid provides 20-49% of the basic budget. For 26 of the districts, most located in Arizona, New Mexico, and South Dakota, Impact Aid provides 50% or more of the basic budget revenues.

The heavily impacted Indian districts, those with 20% or more eligible "A" students comprise the functional core of Indian public education in this country; "A" students were 20%-49% of the total enrollment in 122 of the districts serving Indian students, and they were 50% or more of the total enrollment in 105 of these districts.

The loss of, or severe reduction in, "A" student funding under the Impact Aid program would sound the death knell for Indian public edication in the United States. In Arizona, for example, if reservation districts had to rely on the combination of state foundation assistance and local taxes they would face unconscionable student/teacher ratios and severe reduction in educational programs, if not being forced to close altogether. Taxpayers would face confiscatory tax rates were not limited by state law. Where limited, local taxes would not generate sufficient revenue to keep the schools open.

In short, federal Impact Aid is not merely just another program on Indian education - it _is_ Indian public education. It forms the financial basis for public school survival on Indian reservations. If Indian students are to share in the rich tradition of public education in the United States, continued funding for "A" students under the program is essential.

IV. THE NEED FOR PROTECTING THE CONGRESSIONAL PURPOSE BEHIND IMPACT AID FOR INDIAN STUDENTS

In these times, merely pointing up the need for continued federal funding based upon past reliance on federal funds is a risky business, because we have embarked on a national inquiry questioning such reliance at every level of our society. In the area of education, the inquiry seems to be yielding answers directed at less federal, and more state, responsibility for education. In urging continued funding for Indian students under the Impact Aid program, however, we are not positioning a barrier in the move to return to historical federalist precepts; rather, we argue for continued assertion of the constitutionally mandated role of the Federal Government in dealing with Indian people that has existed from the very creation of our Republic.

The Impact Aid program as it currently exists performs three valuable functions: 1) it enables the Federal Government to promote Indian education with a minimal direct intervention in the educational process; 2) it encourages states to assume an obligation to educate Indian students which they would otherwise be inclined to foresake; and 3) it provides a vehicle for Indian tribes to pursue their legitimate interest in the education of tribal members. Although not originally devised to perform these functions, the program has evolved into an effective means of fulfilling federal responsibilities while enhancing state-supported public education in the field of Indian education. The Impact Aid program's evolution provides an informative background for examining the recent federal role in Indian education.

Initially, Indian students were not included in the Impact Aid program. Congress saw fit to meet its trust responsibility in education through a system of BIA schools and supplementary tuition-like programs to the public schools. In 1953, when Indian students were included in the Impact Aid program, Congress still reserved substantial supplementary program, administered by the BIA, to pay for the added costs public schools incurred in educating Indian students.7/ The

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7/ Senate Report No. 714, July 29, 1953, 1953 U.S. Code Cong. & Admin News, pp. 2330, 2343.

major BIA program, which we know as Johnson-O'Malley, still retained substantial importance in providing basic financial assistance for costs incurred in pupil transportation and basic school programs. The resulting confusion over what federal money was designed for basic public school education and what money for special programs for Indian students created an administrative nightmare for school districts and often resulted in an unlawful comingling of JOM and Impact Aid funds which in turn engendered litigation by Indian parents.[8/]

In 1978, Congress, through P.L. 95-561, increased Indian entitlements under the Impact Aid program to cover all basic education costs and specified that other programs, such as Johnson-O'Malley, would be exclusively supplemental.[9/] As we have previously noted, Congress further provided for procedures whereby Indian parents and tribes could be assured some measure of participation in determining how the Impact Aid money would be allocated by local school boards. As a result of the changes wroght in 1978, public school districts receive needed money to provide basic education for Indian students in a context that acknowledges "the special relationship between the Indian nations and the United States". 20 U.S.C. §240(b)3(F).

That "special relationship", which is recognized in the Impact Aid program, extends back to the first dealings of the

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8/ See, Natonabah v. Board of Education, 355 F. Supp. 716 (D.N.M., 1973).

9/ House Rep. No. 95-1137, May 11, 1978, 1978 U.S. Code Cong. & Admin News, p. 5083.

United States with Indian tribes. The trust responsibility first defined by Chief Justice Marshall subsumed education as an inherent element of the definition. Indian tribes, so long as the United States recognizes their status as such, "are in a state of pupilage" to the more powerful sovereign. Cherokee Nation v. Georgia, 30 U.S. 9, 5 Pet. 122 (1831). In addition to the definition provided by Justice Marshall, the issue of education was prominently addressed in most treaties made with Indian tribes. In essence, the process of education is central to the relationship between the United States and Indian tribal members.

In this country, we have long acknowledged that the public school system constitutes a solid foundation upon which to build a democracy, so it is understandable why ongress has taken steps to delegate to the public schools part of the federal responsibility in Indian education. However, such delegation creates several problems in the states running the public school which Congress has always understood.

The first problem, the states' antipathy toward Indian tribes, is as old as our society's relation with Indian people. The existence of semi-sovereign governments within a state's borders has been an irritant to state governments which has not ordinarily produced the most high minded state action. In speaking of the tribes' relations with the states, the Supreme Court stated in 1886:

> They are communities dependent on the United States...Because of the local ill feeling, the people of the States where they are found are often their deadliest enemies. From their very weakness and helplessness, so largely due to the course of dealing of the Federal Government with them and the treaties in which it has been promised, there arises the duty of protection, and with it the power.

U.S. v. Kagama, 118 U.S. 375, 383=84 (1886)

While no longer deadly enemies, Indian tribes and States still evidence a degree of animosity in their relations. In the field of education, the animosity surfaces in school finance.

School finance plans cost state governments ever increasing amounts of money. This is true both because equalization, which implies greater state participation, is an idea whose time has come, and because property taxpayers have made it emphatically clear that the time for increased property taxes has gone. The extremely low assessed valuations of reservation school districts render them highly dependent on revenues other than local taxes. States, seeing precious dollars in state aid going to reservation districts, where the reservation itself deprives the state of some tax revenues, often turn deaf ears to the pleas of financial hardship coming from these districts.

In Arizona, if most reservation school districts had to rely on the state school finance act alone, they could not survive. Every district on a reservation in this State spends more per pupil than the finance plan would otherwise provide. The higher costs flowing from pupil transportation, teacher housing, rural economic isolation, and cultural differences which Congress as recognized, receive no similar recognition from Arizona. To the contrary, the State has seen the higher per pupil cost as exemplifying profligate spending in Indian districts and has imposed budget limits on these districts which restrict even the expenditure of Impact Aid funds. These restrictions are currently being challenged through litigation, and the litigation itself relies on the congressional purpose in providing federal money to these high cost reservation districts.

Arizona, like other states, has viewed Impact Aid as a potential source of state relief on reservations and is anxiously seeking federal approval to substitute Impact Aid for state aid.[10/] New Mexico, which obtained such federal approval several years ago, used the Impact Aid from reservation districts as a statewide source of federal credit, It was only after facing the near financial ruin of several reservation districts that New Mexico grudgingly altered its school finance formula to accomudate these districts' higher costs.[11/]

In trying to make state legislatures appreciate the financial needs of reservation districts, Indian people face a second hard reality in their relations with state governments - lack of any real political power. Indians constitute small insular minorities in the states where they live, and their

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[10/] Pursuant to 20 U.S.C. 240(d)(1)2(A).

[11/] See attached editorial from the Gallup, New Mexico *Independent*.

ballot strength is insufficient to pose any meaningful threat in the state legislative process. They must rely on the protective power of the Federal Government exercising its trust responsibility to see that their needs are recognized.

In fairness to the States, however, it must be noted that in providing public school educations on reservations they shoulder a burden of great weight. Without the local and state taxes that would otherwise be generated in the absence of the federal trust relationship governing reservation land, the cost to the state is significant. Without the federal assistance Impact Aid provides, what little attention the states tend to give to Indian education would undoubtedly devolve into total indifference. President Reagan's "New Federalism" clearly recognizes the need to put adequate funding behind any transfer of traditional federal responsibilities to the States. In the area of Indian education, Congress, through Impact Aid has been practicing the new federalism for thirty years.

V. CONCLUSION

The Impact Aid program as it currently exists addresses many of the historical bases of the federal-state-Indian relationship. The program respects the relationship between the United States and Indian tribes. The program enhances state public education for Indian students without engendering excessive federal intrusion into state and local government. Most importantly, the program provides Indian students with needed protection in educational finance, and without this continued federal funding presence, the states would, absent continued prodding through litigation, undoubtedly neglect the financial support of Indian education. The federal-state-Indian relationship which Impact Aid exemplifies, was born of the practical political necessity in dealing with powerful Indian nations but it has grown for two centuries into a wellspring of national morality in aiding a proud but impoverished insular minority. The program, like the relationship, has grown and prospered under wise congressional leadership, and it deserves to be continued.

-ATTACHMENT C-

THE EFFECT OF THE TRUST RESPONSIBILITY ON THE SECRETARY'S APPROVAL OF STATE EQUALIZATION PLANS UNDER 20 U.S.C. §240(d)

David L. Withey

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Arizona's reservation public schools are faced with a financial crisis unlike that faced by other Arizona school districts. Most districts will be severely affected by spending limits imposed by the 1980 school finance act. Reservation districts are also disproportionately affected by cutbacks in federal funds since these funds compose such a large part of their budgets. In addition, Arizona is seeking federal agency approval of its school finance plan in order to offset some of the federal funds that do come to Arizona schools by reducing state aid.

This paper suggests that federal agency approval of Arizona's school finance plan is governed by the federal trust responsibility as well as the applicable statute.

The thesis developed is that when Congress appropriates funds in recognition of its trust relationship with Indian peoples extraordinary fudiciary duties are imposed upon the federal agency administering those funds. Part I analyzes the origins of the trust relationship. Part II traces its development in federal common law. Part III contains illustrations of special Indian education legislation through history. This legislation demonstrates Congressional recognition of special responsibility for Indian education. Part IV describes a particular education enactment for the benefit of Indians, P.L. 95-561 amending impact aid legislation. Part V discusses the Congressional intent in allowing a state to offset impact aid by reducing state aid. Part VI asserts that federal approval of a state school finance plan must be consistent with fiduciary duties to Indian students as well as with the statutory language and intent. Part VII concludes Arizona does not qualify for such approval, or if it does qualify, the special Indian entitlement must be excluded from equalization.

I. A Trust Relationship Arose in the Course of Dealing Between the United States and Indian Peoples.

Chief Justice Marshall described the relationship between the United States and Indian Tribes in Cherokee Nation v. Georgia.

> They acknowledge themselves, in their treaties, to be under the protection of the United States ... They may, more correctly, perhaps, be denominated domestic dependent nations ... Meanwhile, they are in a state of pupilage; their relation to the United States resembles that of a ward to his guardian.[1]

The trust relationship began in United States' dealings with domestic dependent Indian nations. Marshall seems to have reasoned that since Indian nations located within the United States were recognized as sovereigns for treaty-making and other purposes,—an international dependency was necessarily involved.

> A weak state, in order to provide for its safety, may place itself under the protection of one more powerful, without stripping itself of the right of government, and ceasing to be a state.[2]

Marshall described this international dependency in terms of a guardian-ward or trust relationship.

Chamber's reading of the Cherokee cases leads him to conclude that "the trust relationship is not so much created by treaties as it is implicitly recognized by them."[3] Treaties, statutes, and executive agreements are all means by which the United States has defined its trust responsibilities to Indian peoples.

In Joint Tribal Council of Passamaquoddy v. Morton the first circuit recognized a statutory basis for U.S. Fiduciary duties regarding Indian lands. The court found the Non-intercourse Act was the source of these duties. At the same time, the court anticipated other possibilities.

> Congress or the executive branch may at a later time recognize the Tribe for other purposes within their powers creating a broader set of federal responsibilities; and we, of course, do not rule out the possibility that there are statutes or legal theories not now before us which might create duties and rights of unforseen broader dimension.[4]

The trust relationship resembles a guardianship in the sense that it extends beyond a trusteeship for Indian lands to include protection, education, and provision of basic necessities.

> They look to our government for protection; rely upon its kindness and its power; (and) appeal to it for relief to their wants...[5]

A rationale for a general guardianship or trust relationship was explained by the court in *United States v. Kagama*.

> These Indian tribes *are* the wards of the nation. They are communities *dependent* on the United States....Because of the local ill feeling, the people of the States where they are found are often deadliest enemies. From their very weakness and helplessness, so largely due to the course of dealing of the Federal Government with them and the treaties in which it has been promised, there arises the duty of protection, and with it the power.[6]

According to this rationale the duty of protection arises from a course of dealing which placed Indian peoples in a position of dependence on the federal government. This course of dealing included making treaties which placed Indian peoples on reservations now within the boundaries of states. The duty should have special force in disputes involving states and their Indian citizens. The treaties themselves acknowledge wide-ranging trust responsibilities including the provision of food, clothing, shelter, education, farm implements, protection from outsiders and other services.

Federal legislation from the Non-intercourse Act to the present day reflects recognition of similarly broad trust responsibilities. The court in White v. Califano stated the significance of this.

> When the Congress legislates for Indians only, something more than a statutory entitlement is involved. Congress is acting upon the premise that a special relationship is involved, and is acting to meet the obligations inherent in that relationship. If that were not the case, then most of 25 U.S.C. could not withstand an equal protection analysis for the reason that the legislation embodied in that volume is aimed at a class defined on the basis of race.[7]

In Morton v. Mancari the Supreme Court justified the employment preference accorded Indians on the basis of "the government's trust obligation toward Indian tribes", the "guardian-ward" status, and "the need to give Indians greater participation in their own self-government." The court referred to the Indian commerce clause, Article I, §8, Cl.3, as an example of constitutional authority for Congress to deal specially with Indians. A commerce analysis was not used to justify the preference. The court discussed the rationality of the preference in view of the unique role of the B.I.A. to further the self-government of Indian peoples. The court recognized "that there is no other group of people favored in this manner." Indians are favored "not as a discrete racial group, but, rather as members of quasi-sovereign Tribal entities." The court's justification for the employment preference harks back to the Cheorkee cases and the trust relationship recognized therein.

> "As long as the special treatment can be tied rationally to the fulfillment of Congress' unique obligation toward Indians, such legislative judgments will not be disturbed."[8]

Congress has afforded Indians special treatment in many areas including health care, housing, welfare benefits and education. Unless Congress is meeting unique trust obligations to members of quasi-sovereign Tribal entities in affording such special treatment the legislation does not fall within the rationale of Morton v. Mancari. Social legislation aimed at benefitting Indians only is subject to an equal protection challenge unless it was passed in recognition of trust obligations.

II. The Trust Relationship Has Become Part Of Federal Common Law.

Judicial interpretation of Indian legislation and treaties in light of the course of dealing with Indian peoples has resulted in a federal common law doctrine that the United States stands in a fiduciary relationship to Native Americans.[9] As discussed above, treaties, statutes and executive agreements have defined this relationship.

Before federal courts may apply this common law doctrine in suits against the United States they must find jurisdiction. In Eric v. Secretary of U.S. Department of Housing and Urban Development the court held that "federal question jursidiction exists for the plaintiffs claims based upon the defendant's (U.S. H.U.D.) acts and omissions which breach the trust duty under the Bartlett Act."[9] The jurisdictional bar imposed by the sovereign immunity doctrine is avoided where the complaint seeks specific relief rather than money damages. Congress has waived sovereign immunity as to "relief other than money damages."[10] The Eric court held that it had jurisdiction over plaintiff's claims for a Declaratory Judgment that trust duties had been violated. Declaratory judgments "are not essentially money judgments."

The clearest violations of fiduciary duties have been found in federal agency mismanagement of tribal properties.[12] However, in United States v. Mitchell the Supreme Court refused to recognize expansive fiduciary duties to manage timber resources based only on the General Allotment Act.[13] The court pointed to the Congressional intent that the allotee not the United States manage the allotted land. The United States "trust" was limited to restraining alienation and immunizing the land from state taxation. This interpretation of the Act is consistent with the federal policy at the time to end tribalism and to "get out of the Indian business."

On remand the Court of Claims found that subsequent statutes have created trust responsibilities for alloted lands.[14] These statutes require comprehensive federal regulation and management of timber resources. These statutes reflect current federal policy to foster Indian resource development and to strengthen tribalism. This case illustrates Congress' ability to acknowledge different responsibilities for the same land at different times. Each statute and the underlying Congressional intent and purpose must be carefully examined to define the precise trust responsibility it creates.

Once a trust responsibility is identified and defined by statute the federal agency charged with performing that responsibility is held to a high standard.

> Agency actions are subject to very careful scrutiny. Under a humane and self-imposed policy which has found expression in many acts of Congress and numerous decisions of this court, it (the United States) has charged itself with moral obligations of the highest responsibility and trust. Its conduct, as disclosed in the acts of those who represent it in dealings with the Indians, should therefore be judged by the most exacting fiduciary standards.[15]

The courts also give special attention to administration of social programs created by Congress for the special benefit of Indians. The B.I.A. was found subject to a "distinctive obligation of trust in allocating welfare benefits under the Snyder Act.[16] The rationale for the court's result granting the plaintiff off-reservation Indian welfare benefits indicated that adminstrative procedure must meet a higher than normal standard of fairness to be consistent with agency trust responsibilities. A unanimous court reached this conclusion.

At issue in White v. Califano was the failure of the Indian Health Service to provide mental health care to an indigent Indian under the Indian Health Care Improvement Act of 1976. The act states:

> The Congress finds that- . . .
> (a) Federal health services to maintain and improve the health of the Indians are consonant with and required by the Federal Government's historical and unique legal relationship with, and resulting responsibility to, the American Indian people.[17]

The court found that through the statute Congress recognized a general federal trust responsibility for Indian health care. The statute did not expressly provide for mental health services. The court concluded the agency had to provide such services in this case in order to be consistent with congressional intent to fulfill its trust responsibility.

> Therefore, when we say that the trust responsibility requires a certain course of action, we do not refer to a relationship that exists only in the abstract but rather to a congressionally recognized duty to provide services for a particular category of human needs. The trust responsibility, as recognized and defined by statute, is the ground upon which federal defendants' duties rest in this case.[18]

Trust responsibilities and statutes recognizing them combine to impose greater obligations on agencies. The agency failed in its responsibility when it refused to serve crucial Indian mental health needs despite Congress' broad acknowledgment of responsibility. The federal agency's responsibility is to identify the needs, to serve the most crucial of those needs within the framework and with the resources Congress provided and to seek additional funds to serve unmet needs.

Eric v. Secretary of United States Department of Housing and Urban Development[19] is yet another example of special judicial attention to federal social programs for Indians. The court found the federal agency could be held responsible for Alaska Native housing improperly designed and constructed. The Alaska State Housing Authority designed and constructed the houses using federal funds provided under the Bartlett Act.[20] The court found evidence in the legislative history that the Bartlett Act was enacted to fulfill federal trust duties. "(T)he Bartlett Act 'is a means of carrying the government's responsibility to poverty-stricken Alaska Natives, a duty that has existed almost since Alaska's purchase a century ago.... This program is a device to fulfill this long-neglected duty."[21] The Act also provided housing for "other Alaska residents." This did not alter the fact that the Act primarily created a special housing program for Alaska Natives motivated by federal trust responsibilities.

Delegation of program administration to the state housing authority did not avoid federal responsibility. The Seminole case laid that proposition to rest. The court held federal officials responsible for misallocation of tribal funds by tribal officials. The Eric court also agreed with Seminole that common law trust principles apply to the federal agency. Agency actions were "judged by the most exacting fiduciary standards."

The trust/guardianship relation imposes affirmative obligations on federal agencies. The Interior Secretary's fiduciary duty required him to exercise his discretion in favor of Indian water needs according to the court in Pyramid Lake Paiute Tribe of Indians v. Morton.

> The Secretary was obliged to formulate a closely developed regulation that would preserve water for the tribe. He was further obliged to assert his statutory and contractual authority to the fullest extent possible to accomplish this result.[22]

Again the court required more rigorous administrative procedure. At a minimum the court required that the Secretary make precise findings to justify agency determinations adverse to Indian interests.

As demonstrated in Mitchell the court initially examines the statute and its legislative history very carefully in defining whatever trust responsibility was created. The court is willing to look beyond the language of the statute in order to honor Congress' intent to satisfy as fully as possible the trust obligations created in the statute. The court then holds the federal agency strictly responsible to meet those trust obligations.

III. Congress Has Consistently Reaffirmed A Trust Responsibility For Indian Education.

Historically, education has been consistent with both separatist and assimilationist strains of federal Indian policy.

Reservation policy involved the attempt to confine nomadic tribes to a clearly defined area of land. The need to re-educate Indian peoples for an agarian lifestyle was recognized. Assimilation required the "civilizing" influence of an English grammar school education. Self-determination requires enough understanding of American society to make choices and enough skills to achieve the chosen objectives. Education has long been a necessary part of federal Indian policy.

An education provision was included in most of the treaties between the United States and Indian tribes. The Navajo treaty of 1868 is typical of that period.

> The United States agrees that, for every thirty children between said ages (6 and 16) who can be induced or compelled to attend school, a house shall be provided, and a teacher competent to teach the elementary branches of an English education shall be furnished, who will reside among said Indians, and faithfully discharge his or her duties as a teacher.
>
> The provisions of this article to continue for not less than ten years.[23]

Despite the indefinite time period in the treaty language the tribe lost a compensation claim that the United States failed to provide educational services between 1878 and 1913.[24] The court refused to recongize a compensable obligation beyond the ten years definitely required by the treaty. However, the evidence showed that the appropriations for Navajos from 1913-1928 stated that they were for the purpose of fulfilling the treaty obligation. Interior Department testimony in 1913 was the following:

> That (1) government had 'moral obligations' to provide adequate school facilities for Navajo Indian children, and/or (2) the Government had not provided adequate educational help under the Treaty during the ten years the Treaty obligation lasted, and further appropriations were needed to meet that unfulfilled 10-year obligation.[25]

If the Congress did not continue a compensable treaty obligation to the Navajo tribe it certainly acknowledged a trust obligation for education by continued appropriations citing the Treaty. This pattern was followed for many tribes.

A treaty with the Sioux tribe entered the same year as the Navajo treaty, 1868, required the same educational services from the United States for a 20-year period. In 1889 the Congress continued these services by statute for another twenty years.[26] The Court of Claims held the tribe was not entitled to compensation for lack of services during the Treaty period, due to the unavailability of the children and the impossibility of calculating the damages.[27] Claims based on failure to satisfy the education provisions of treaties have been generally unsuccessful. Rosenfelt reports that in 1968 the Mesquake Indians of Tama, Iowa relied on their treaty rights to prevent the closing of a day school. They obtained a preliminary injunction and reached a settlement with the B.I.A.[28]

When treaty-making was terminated the Congress continued to recognize federal responsibility for Indian education by statute. As early as 1891 the Department of Interior was paying public schools to educate Indian children.[29] The Snyder Act[30] authorized B.I.A. expenditure "for the benefit, care and assistance of the Indians throughout the United States for the following purposes: General support and civilization, including education." In 1930 more Indian students were in public schools than Bureau schools.

The 1934 Johnson-O'Malley Act[31] (J.O.M.) authorized the Secretary of Interior to contract with states "for the education, medical attention, agricultural assistance, and social welfare, including relief of distress, of Indians." In 1953 P.L. 874 (Impact Aid) was amended to include Indian children living on tax-exempt Indian lands in order "to help meet general educational costs involved in providing education to these children."[32] In 1972 Congress passed the Indian Education Act "in recognition of the special educational and culturally related academic needs of Indian students."[33] Congress has repeatedly reaffirmed the United States' special responsibilities for Indian education by appropriating funds to be spent as authorized by the above legislation.

The most recent and clearest declaration by Congress of federal Indian education responsibility and policy occurred in the Indian Self-Determination and Education Assistance Act.

> (a) The Congress, after careful review of the Federal Government's historical and special legal relationship with, and resulting responsibilities to, American Indian people, finds that--
>
> (2) the Federal responsibility for and assistance to education of Indian children has not effected the desired level of educational achievement or created the diverse opportunities and personal satisfaction which education can and should provide;
>
> (c) The Congress declares that a major national goal of the United States is to provide the quantity and quality of educational services and opportunities which will permit Indian children to compete and excel in the life areas of their choice, and to achieve the measure of self-determination essential to their social and economic well-being.[34]

This Act was watershed legislation for Indian education, for Indian self-determination and in tying the two together.

Congress recognized its trust relationship and trust responsibility for Indian education. Congress et forth a federal policy to assure complete educational opportunity for Indian children. The ultimate goal was to enable self-determination by Indian peoples. Title XI of P.L. 95-561 amending impact aid legislation[35] is another example of this policy enacted into law. Impact aid provides significant amounts of money for educating Indian students.

IV. Title XI of P.L. 95-561 Amending Impact Aid Legislation Was Enacted in Recognition Of United States Trust Responsibilities To Indian Peoples.

Federal Impact Aid[36] was intended to relieve financial burdens associated with federal presence in a public school district. The Commission on the Review of the Federal Impact Aid Program reported to Congress on April 8, 1981 that the Act recognizes a twofold obligation. The federal government is obligated to the school district for loss of tax revenue on tax free federal property and the additional cost of educating federally-connected children. The federal government is also obligated under the statute "to federally-connected children, to assist in providing them an adequate level of education..."[37] Both of these obligations have their sole legal basis in the statute. Congress may eliminate and has varied the amount of funds provided for impact aid.

Impact aid was initiated in 1950 to meet the financial need of school districts containing military bases and educating the children of military personnel. As mentioned above, the program was expanded in 1953 to include Indian children living on tax-exempt Indian lands. In its original form the impact aid program provided school districts with general operating funds rather than categorical funds required to be spent for particular purposes. This was consistent with the Congressionally recognized obligation to the school district.

The Act presently provides categorical-type aid for the special educational needs of federally-connected children. These are children who reside on Indian lands or in low-rent housing projects or whose parents are employed by the federal government. This is consistent with the Congressionally recognized obligation to those children. 20 U.S.C. §238(d)(2)(C) allows a 50% increment (150% entitlement) over the normal impact aid entitlement for each handicapped or learning disabled child. Receipt of these extra funds is conditioned on the provision of a program designed to meet the special needs of these special children.

The Advisory Study Group on Indian Education of the House Committee on Education and Labor identified Indians as "another extra cost group."[38] The Study Group cited the 50% increment for handicapped children as precendent for recommending a 25% increment (125% entitlement) for each Indian student.

The entitlement for Indian students was conditioned on sensitivity for the needs of Indian children in the basic educational program. Indian parents and tribes must be "consulted and involved in the planning, development, and operation of programs assisted" by the entitlement.[39] The study group's recommendations were enacted into law in Title XI of P.L. 95-561, Education Amendments of 1978, amending P.L. 874, 20 U.S.C. §238-§240.

Congress' motivation for providing extra impact aid funds and for requiring parental and tribal involvement is stated in 20 U.S.C. §240(b)(3)(E).

> This paragraph is based upon the special relationship between Indian nations and the United States and nothing in it shall be deemed to relieve any state of any duty with respect to any citizens of that state.

This language indicates Congress enacted Title XI of P.L. 95-561 in recognition of its trust responsibilities for Indian education and self-determination. In committee, Representative Kildee acknowledged, "We do have a special obligation to the Indian students because of treaties along with our moral obligations to all students."[40] The House committee report indicated the act was designed "to insure the increased participation of Indian parents and tribes in the education process."[41] The language of §240(b)(3)(E) also indicates Congress' concern that states would take advantage of the increased federal support by neglecting their duty to provide for the education of their Indian citizens.

Congress provided the 25% increment for each Indian student to help meet the "extra costs" involved in educating Indian students and as part of the United States trust responsibility for Indian education. In committee hearings Representative Blouin stated, "I think we have to assume it costs more, especially on reservation or in a peripheral setting, to educate an Indian child..."[42] The Advisory Study Group identified "the need for increased dollars to meet the higher cost of supplying basic education programs for Indian children" as one of the problems in Indian education that required "immediate remedial legislation."[43]

In committee hearings Representative Quie recognized a particular problem raised by the higher cost of Indian education.

> 874 is inadequate in many areas to take care of that total basic support, meaning the share of elementary and secondary education, that is the average expenditure that would be attributed to the Indian children, and so in many cases you have to take basic support out of Johnson-O'Malley."[44]

Later in the hearing Quie suggested a solution in a question to a witness.

> Could you conceive of the possibility of amending 874 so that a total of basic support could be funded out of 874 and Johnson-O'Malley only used for supplemental purposes.[45]

The P.L. 95-561 25% increment was intended as part of a federal Indian education finance scheme including impact aid and J.O.M. funds. In order that J.O.M. funds would be available for supplemental programs the "extra costs" of Indian basic education had to be covered by impact aid. The fact that Congress took a comprehensive look at Indian education in passing P.L. 95-561 was indicated at the initiation of the May 17-19 Hearings.

> "We shall address the problem of whether the current educational delivery systems at the state, federal and contract level are fulfilling the educational needs of the Indian children.[46]

Impact aid was intended as one piece of Congress' larger efforts to meet trust responsibilities for Indian education.

V. Impact Aid May Not Be Counted In A State School Finance Plan Unless That Plan Is Truly Equalizing.

Congress provided in P.L. 93-380(1974) that if a state has a system of school finance which "equalizes expenditures" among school districts throughout the state, that state may get federal approval to count impact aid in determining how much state aid a school district receives. The rationale for this is that impact aid payments into a school district's basic operating budget outside an equalization plan interferes with a state's legitimate interest in equalizing educational opportunity throughout the state and results in windfalls for impacted school districts.

The Department of Education has the task of determining whether a state's system of school finance is truly equalizing. The statute leaves the job of defining "equalizing" to the Secretary. The legislative history provides some procedural and some substantive guidelines.

> "The Secretary is to make very careful and deliberate determinations in granting States exemptions under the authority of this amendment."[48]

The Department is required to consult with State and local educational agencies in making this determination.[49] The Congress contemplated the need for state by state determinations based on the unique circumstances of each state. A Senate report on the amendment which became §240(d)(2) stated:

> The terms "State aid" and "equalize expenditures" are left to the Commissioner to define by regulation. The Committee did not want to define such terms rigidly in the legislation, since the wide variations in school finance programs demand flexible responses to the unique needs of each State.[50]

In 1975 hearings Congressman Ford of Michigan, a sponsor of the amendment in the House, criticized the commissioner's plan to set forth a national rule of equalization.

> We finally ended up putting language in the report which we hoped would head off this kind of formula, saying that you would examine on a case by case basis and develop criteria as you went along that would enable you as a Commissioner to determine that in fact that state was equalizing its effort... So we really threw to you a very subjective type job. It looks to me like you tried to make it objective, not subjective, at the expense of carrying out the intent.[51]

In 1978, Congress reinforced its intent to require case by case determinations by adding a notice and hearing provision to §240(d)(2).[52] Despite the apparent Congressional intent, current regulations allow states to qualify under §240(d)(2) by meeting one of three tests applied nationwide.[53]

The Commissioner's discretion to approve state school finance plans under §240(d)(2) is also subject to substantive limits. The House committee set forth clear guidelines.

> The Committee believes that the Secretary of HEW should apply the following three measures in determining whether a State's educational finance program is equalizing:
>
> 1. Whether the plan has increased, or is increasing, the percentage of school revenues provided from State sources.
> 2. Whether the State's funds are being apportioned in inverse proportion to the taxpaying ability of local school districts.
> 3. Whether the apportionment formula is making allowances for the necessary variations in costs per unit of educational need.[54]

The legislative history refers the reader to a study done for the House Committee by the Congressional Research Service for a fuller understanding of Congressional intent. The C.R.S. study indicates that the above criteria were adopted from a study by Johns and Salmon. These criteria represent an expanded view of equalization which looks to the realization of equal educational opportunity throughout a state. The key to this broader view is criterion (3) above, which requires that.. "the varying educational needs of the student population are taken into consideration before allocations are made.."[55]

Reliance on the C.R.S. study indicates that Congress intended to require more to satisfy §240(d)(2) than equal dollars behind each child. "Equalize expenditures" meant distributing resources throughout the state based on the differential needs of students in order to achieve equal educational opportunity. The House committee report on P.L. 95-561 states the intention to develop a "standard of equalization that applies to all students and that recognizes the educational needs of all students."[56] This broader view of equalization is accepted though not required in the language of the statute. §240(d)(2)(B) instructs the commissioner to allow for state plans which consider the extra costs of providing for students with special educational needs.

VI. Impact Aid Funds For Indian Students May Not Be Counted In A State School Finance Plan Unless This Is Consistent With the Commissioner's Fiduciary Duties To Meet United States Trust Responsibilities In The Administration Of These Funds.

The source of the commissioner's fiduciary duty to administer impact aid for the benefit of Indian students is P.L. 95-561. As discussed above the language and legislative history of the P.L. 95-561 amendments to 20 U.S.C. §238 *et seq*. show Congress' desire to meet its trust responsibility for Indian education through that statute.

The subject matter of the trust is impact aid funds. These funds were designated by Congress to meet the extraordinary costs of providing a basic education to Indian students in public schools. Though Congress did not identify these costs and make categorical grants the legislative history shows intent to use impact aid along with J.O.M. funds as part of a federal Indian education finance scheme.

The 125% entitlement included in P.L. 95-561 indicated Congress' understanding that impact aid was an essential part of Indian school finance, composing from twenty to forty percent of the budgets of reservation school districts. *White v. Califano* teaches that the Commissioner must look beyond the statutory language where Congress has recognized a trust duty to serve a "particular category of human need."[57] Congressional policy was to maximize the quantity and quality of Indian education opportunities. In view of its importance, Congress must have intended that Indian students get the full value of impact aid funds. The Commissioner is bound to effectuate that intent.

Congressional action in recognition of trust responsibilities in P.L. 95-561 requires that the Commissioner meet the most exacting fiduciary standards in administering impact aid.[58] The Commissioner's fiduciary duties are not affected by the fact that the impact aid statute passes along the benefits of impact aid to states which are equalizing educational resources. These duties cannot be delegated out of existence.[59] The Commissioner may be held strictly accountable in his approval of state finance plans which have an adverse impact on Indian students.[60]

Rosenfelt contends U.S. v. Kagama supports the proposition that even without a statutory basis the United States has a "legally enforceable obligation to assure that Indian children are provided an equal educational opportunity by either the state or federal government."[61] This federal assurance of equal educational opportunity in public schools is the essence of the duty of protection recognized in Kagama. Indian students and parents dependent on the public schools of a state should not have to resort to expensive litigation to obtain equal educational opportunity.

The commissioner has an affirmative duty to exercise his discretion to approve state school finance plans in a way that furthers Indian education. As discussed above, Congress identified a need for more money to meet the extra costs of operating reservation schools. Congress chose to provide this money through an increased impact aid entitlement for each Indian student served. The Commissioner must tailor any regulations governing impact aid to protect Congressionally recognized Indian trust interests to the extent of his statutory authroity.[62] His authority under the §240(d)(2) is very broad.

VII. Allowing Arizona To Consider Impact Aid In Allocating State Aid To Reservation School Districts Under The Present School Finance Plan Is Inconsistent With Congressional Intent And With The Commissioner's Fiduciary Duties.

The State of Arizona has given notice under 20 U.S.C. 240 (d)(2)(C) of its intention to take impact aid payments into consideration in allocating state aid. The United States Department of Education is currently considering certification of Arizona's school finance plan. Certification would have the effect of eliminating millions of dollars of financial resources received under 20 U.S.C. §240(d)(2)(D) and currently available to reservation school districts serving large numbers of Indian students throughout the state.

Arizona's new school finance plan[63] enacted in the 1979-80 special session is a product of the old school of through about equalization. It is designed to equalize the dollars behind each student throughout the state regardless of many types of student costs and need. The plan is to accomplish this over a five-year period.

Under the plan every student in the state is guaranteed a basic support level of spending set by the legislature. This basic support level is adusted by a weighted student count to account for costs related to teacher experience, the size of schools, vocational education programs and programs for certain handicapped students. Transportation is financed outside the basic support level based on student/miles traveled.[64] School districts spending more than this basic support level are governed by a spending ceiling which is lowered each year. According to the plan, all districts will be operating at the basic support level at the end of the five years.

Arizona's school finance plan runs afoul of Congressional intent about equalization in general, and about increased educational opportunity for Indian students in particular. The entire thrust of Arizona's plan to equalize dollars rather than educational opportunity is contrary to the Congressional understanding of equalization adopted from the Congressional Research Service study discussed above.

The actual special educational needs of students are inadequately accounted for. The plan allows a flat rate based on the total number of students in a school district,regardless of actual need,to cover educational needs such as bilingual education, remedial education, learning disabilities and educable mentally handicapped. A district with no students with these needs receives proportionally the same amount of money as a district with many students with these needs.[65]

The state-imposed spending ceilings have excluded necessary costs such as books, educational aids, and equipment and underrated others. The basic support level was determined without considering the full range of costs incurred in providing basic education to Indian students. These costs include higher salaries for less experienced teachers, provision of teacher housing, extraordinary maintenance expenses, higher utility rates, and necessity to lease capital equipment due to lack of bonding capacity to fund purchases.

Greater student needs and higher costs have led to larger expenditures in reservation public schools than in schools of comparable size elsewhere in Arizona.[66] The Arizona plan penalizes reservation districts for their efforts to meet these needs and costs by identifying these districts as "high spending." The finance plan forces reservation districts to reduce their expenditures to the state basic support level in the name of equalization. Certainly the Arizona school finance plan as applied to reservation school districts does not equalize educational opportunity as Congress intended.

Allowing Arizona to consider impact aid in its finance plan would compound the financial problems faced by reservation districts. Approval by the Commissioner would fly in the face of the Congressional intent behind the 125% impact aid entitlement for Indians. Arizona has not allowed for the "extra cost" of providing basic education for Indians identified by Congress in authorizing the entitlement. In fact, Arizona plans to allow less money to be spent for Indian education in the future. Congress clearly intended to provide more.

Congress passed the Indian Self-Determination and Education Assistance Act the same month in 1976 that it amended impact aid legislation to allow for state equalization. Congress did not intend to acknowledge its trust responsibility for Indian education on the one hand and abdicate it on the other. Impact aid is part of a continuing comprehensive federal effort to provide equal educational opportunity for Indian students. The equalization provision was not intended to allow states to reduce this effort only to supplant it.

The Commissioner is required in the legislative history of §240(d)(2) to make "a very careful and deliberate determination" about Arizona's school finance plan. He should not rely exclusively on formulas which measure the distribution of education dollars throughout the state as the regulations provide. If he considers the impact on individual school districts based on their student needs and costs, as he must, he will reject Arizona's plan.

The Secretary must give even more exacting consideration to the effect of his determination on reservation school districts in Arizona. He acts as a fiduciary for Indian students. He must be certain that Arizona provides for as high a level of "quality and quantity of educational services and opportunities"[67] for Indian students as Congress intended. Measures designed to achieve equal educational opportunity are key to both equalization and fulfillment of the trust responsibility. The Arizona plan will reduce the educational resources available to Indian students without considering the effect on their educational opportunities.

Any doubt about the effectiveness of Arizona's equalization plan under §240(d)(2) should be resolved by preventing the state from offsetting the impact aid entitlement for Indian students.

If the Secretary chooses to approve Arizona's school finance plan the approval must be conditioned on the exclusion of the 25% increment for Indian students from equalization. The regulations include such an exclusion for the extra funds (150%) provided for handicapped students.

> Payment provided under section 3(d)(2)(C) may not be considered by a state in determining the need for or the amount of state aid which will be allocated to a local educational agency receiving those payments.[68]

The authority given for this regulation is 20 U.S.C. 238(d)(2)(C) which requires a special program for handicapped students as a condition for receiving the extra funds and 240(d) which prevents the secretary from considering special provision for handicapped students as a disequalizing factor in a state finance plan. The reasoning behind the regulation is that the extra money is needed to fund the required special program.

The same reasoning applies to the extra funds provided for Indian students. §240(b)(3) requires special sensitivity in the basic education program to the needs of Indian students as expressed by their parents and tribes. This is a condition for receiving the extra entitlement for Indians. Congress must have contemplated that substantive program impact by Indian parents and tribes would result in "extra costs" for school districts educating Indian children. The difference in program requirements between 238(d)(2)(C) and 240(b)(3) may show Congress' understanding that programs for handicapped students can be guided by national standards while programs for Indian students must be developed locally with sensitivity to the unique circumstances and needs of each Indian community.

Though P.L. 874 funds are provided for the basic support of local educational programs they become categorical in nature when receipt of money for certain types of students is conditioned on special attention to those students in the educational program. Both handicapped and Indian students must receive such special attention before impact aid funds can be claimed for them. The fact that the requirements imposed on the educational program to qualify for the Indian entitlement are less substantive does not affect the categorical nature of the funds. Majority Leader Byrd spoke in substantive terms in introducing the conference committee report on P.L. 95-561 to the Senate. Senator Byrd commented, "Additional services are provided for Indian children."[69]

The fact that §240(d)(2)(B) does not mention Indian children in the list of children with "special educational needs" should have no bearing on the treatment of the special Indian entitlement. The purpose of that section was to allow the states to finance special needs without being penalized by the effect this has on numerical equalization. As discussed above, this is consistent with Congress' understanding that equalization means providing equal educational opportunity rather than equal dollars per child. The special entitlement for Indians represents Congress' recognition of special needs and costs.

Even in 1974 Congress did not purport to list all categories of pupils with special educational needs. The language in §240(d)(2)(B) is "such children as...." In 1978, four years after the equalization provisions and the special handicapped entitlement were in place, the Congress determined that Indian students had special unmet educational needs. Citing the 50% increment for handicapped students as precedent Congress amended the statute to provide a 25% increment in impact aid for the "extra costs" of Indian education.

The Secretary is especially obliged in light of the trust responsibility discussed earlier, to recognize Congress' intent in 1978 to provide extra funds for Indian education immune from equalization just as he recognized the intent to do so for handicapped students in 45 C.F.R. §115.76(b). In neither case did Congress expressly provide an exemption. The Secretary must exercise his discretion to avoid the adverse impact on Indian education bound to result from any reduction in impact aid to reservation school districts.

[illegible]

[1] 30 U.S. (5Pet.) 1,81.Ed.25.

[2] *Worcester v. Georgia*, 31 U.S. 515,560-61.

[3] Chambers, "Judicial Enforcement of the Federal Trust Responsibility To Indians" 27 Stanford Law Review 1213.

[4] 528 F2d. 370,379 (1st Cir,1975).

[5] Cohen, *Handbook of Federal Indian Law*, Albuquerque: University of New Mexico Press, 1942.

[6] 118 U.S. 375, 383-384(1886).

[7] 437 F.Supp. 543,557(1977).

[8] 417 U.S. 535,94 S.Ct. 2474,2485.

[9] 464 F.Supp. 44,47(1978)

[10] 5 U.S.C.A §702(1977)

[11] *Eric*, supra at 48.

[12] *Seminole Nation v. United States*, 316 U.S. 286,62 S.Ct.1049(1942), *Manchester Band of Pomo Indians v. United States*, 363 F.Supp.1238(1973), *Navajo Tribe v. United States*, 364F.2d 320(1966).

[13] United States v. Mitchell, _____U.S._____, 100S.Ct.1349(1980).

[14] *Mitchell, Et.Al. v. United States*, Slip opinion, October 21, 1981.

[15] *Seminole Nation v. United States*, 316U.S.286,296-297(1942).

[16] Morton V. Ruiz, 415U.S.199,94S.Ct.1055(1973).

[17] 25 U.S.C. §1601.

[18] White v. Califano, 437F.Supp.543,547(1977).

[19] 464 F.Supp 44(1978).

[20] 42 U.S.C. §3371(1970).

[21] Eric, supra at 48.

[22] 354 F.Supp. 252,256(1973).

[23] 15 Stat.667

[24] Navajo Tribe of Indians v. United States, 624 F.2d 981(1980).

[25] Ibid at 996.

[26] 25 Stat. 888.

[27] Souix Tribe v. United States, 84 Ct.Cl. 16(1936).

[28] Rosenfelt "Indian Schools and Community Control" 25 Stanford Law Review 489(1973)p.503.

[29] Oversight Hearings on Impact Aid, House Committee on Education and Labor, May 17-19, 1977, p.10.

[30] 25 U.S.C. §13(1921).

[31] 25 U.S.C. §452.

[32] 1953 United States Code Congressional and Administrative News 2330.

[33] 20 U.S.C. §241aa.

[34] 25 U.S.C. §450.

[35] 20 U.S.C. §238 *et*. *seq*.

[36] Ibid.

[37] Oversight Hearing on Impact Aid, House Committee on Education and Labor, April 8, 1981, p.25.

[38] 1978 United States Code Congressional and Administrative News 5083.

[39] Text of O.L. 95-561, Title IX, Congressional Record, July 13, 1978, H6656.

[40] Oversight Hearings on Indian Education, House Committee on Education and Labor, May 17-19, 1977, p.31.

[41] 1978 United States Code Congressional and Administrative News 5083.

[42] Hearings, May 17-19, 1977 supra. at 32.

[43] 1978 United States Code Congressional and Administrative News 5082.

[44] Hearings, May 17-19, 1977 supra. at 33.

[45] Ibid. at 78.

[46] Ibid. at 1.

[47] 20 U.S.C. §240(d)(2).

[48] 1974 United States Code Congressional and Administrative News 4129.

[49] 20 U.S.C. §240(d)(2)(B).

[50] Education Amendments of 1974, Senate Committee on Labor and Public Welfare, March 29, 1974, p.56.

[51] Oversight Hearings on Impact Aid Laws and Testimony on HR 5181, House Committee on Education and Labor, February 27, 1975, pp 25-26.

[52] 20 U.S.C. §240(d)(2)(C)(1).

[53] 45 C.F.R. §115.61 *et. seq*.

[54] 1974 United States Code Congressional and Administrative News 4129.

[55] *Public Law 874 and State Equalization Plans*, Congressional Research Service, March, 1974.

[56] 1978 United States Code Congressional and Administrative News 5082.

[57] See *White v. Califano* 437 F.Supp. 543(1977) and discussion above.

[58] See *Morton v. Ruiz*, 415 U.S.199,94 S.Ct.1055(1974) and discussion above.

[59] See *Eric v. Secretary of U.S. Department of Housing and Urban Development*, 464 F.Supp 44(1978), *Seminole Nation v. United States*, 316 U.S. 286, 62S.Ct.1049(1942) and discussion above.

[60] See *Pyramid Lake Paiute Tribe of Indians v. Morton*, 354 F.Supp 252(1973) and discussion above.

[61] Rosenfelt, supra at 504.

[62] See *Pyramid Lake*, supra.

[63] A.R.S. 15-1201 *et. seq*.

[64] A.R.S. 15-1202.05.

[65] Ibid.

[66] A Study of Selected Public Schools On and Off Indian Reservations In Arizona, Arizona Department of Education, 1976.

[67] 25 U.S.C. §450.

[68] 45 C.F.R. §115.76(b).

[69] Remarks of Robert C. Byrd, Congressional Record, October 12, 1978, S 18571.

-ATTACHMENT D-

Resolution No. R-16-82

RESOLUTION

COLORADO RIVER TRIBAL COUNCIL

A Resolution to Request of the President and Congress the restoration of full entitlements under P.L. 81-874

Be it resolved by the Tribal Council of the Colorado River Indian Tribes, in regular meeting

assembled on March 13, 1982

WHEREAS, the Tribal Education Committee of the Colorado River Indian Tribes is authorized by the Tribal Council and has the responsibility for overseeing and protecting the educational rights and educational needs of the Indian children of the Colorado River Indian Tribes in state-operated schools as well as Tribal schools, and

WHEREAS, land held in trust by the Federal government comprises 60% of the total area served by the local school district, and this situation seriously limits the ability of the district to raise funds for public education through local property taxes, and

WHEREAS, Public Law 95-571, Title XI, Part A, Section 1101, gives to the Colorado River Indian Tribes the right and responsibility to participate in the planning and development of educational programs for which federal Impact Aid is provided, and to protect the rights of school children of the Colorado River Indian Tribes, under educational programs and in schools for which federal Impact Aid is provided, and

WHEREAS, recent congressional and administrative actions with regard to the House Education and Labor Reconciliation Bill which proposed a zero level of funding for Impact Aid, P.L. 81-874, for Fiscal Year 1982 and subsequent years, and

The foregoing resolution was on March 13, 1982 duly approved by a vote of 8 for and 0 against, by the Tribal Council of the Colorado River Indian Tribes, pursuant to authority vested in it by Section 1. a. & v., Article VI of the Constitution and By laws of the Tribes, ratified by the Tribes on March 1, 1975 and approved by the Secretary of the Interior on May 29, 1975, pursuant to Section 16 of the Act of June 18, 1934, (48 Stat. 984). This resolution is effective as of the date of its adoption.

COLORADO RIVER TRIBAL COUNCIL

By Anthony Drennan Sr.
Chairman

Elliott L. Booth
Secretary

WHEREAS, any elimination of funding for school districts, serving children residing on Indian lands reduces the budget of the local school district by as much as 30% of the total budget, and

WHEREAS, the local public school district serving Indian children of the Colorado River Indian Tribes is forced to rely upon the federal government for a substantial portion of their operating budget, and

WHEREAS, the proposed Bill, if passed, will result in the local public school district being unable to fully and adequately carry on existing and future school programs, and

WHEREAS, Congress and the Executive Administration recognize the significance of Impact Aid as one of the several means by which the United States can satisfy the treaty obligation and trust responsibility to Indian Tribes,

WHEREAS, it has been the recommendation of the President's Impact Aid Commission Report to implement and reaffirm the basic intent of P.L. 81-874 to make "payment to local school district, for children in that district, for a problem local in nature",

NOW, THEREFORE, BE IT RESOLVED by the Tribal Council of the Colorado River Indian Tribes hereby respectfully requests the Congress and the President of the United States to restore full entitlements under P.L. 81-874 to enable recipients of the Impact Aid to continue as long as there is no alternative to raising revenue without a tax base,

BE IT FURTHER AND FINALLY RESOLVED that this request and Resolution be delivered to the President and Congress to urge the administration to continue the P.L. 81-874 program for the Indian children of the Colorado River Indian Tribes and for all other categories of children eligible under P.L. 81-874.

Testimony on: TRANSFER OF TITLE IV FROM DEPARTMENT OF EDUCATION TO THE BUREAU OF INDIAN AFFAIRS

Submitted by: COLORADO RIVER INDIAN TRIBES
PARKER, ARIZONA

for

Senate Select Committee on Indian Affairs Oversight Hearing on Indian Education, Washington, D. C.
May 18-19, 1982

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1. Parker Unified School District No. 27 California Achievement Tests . . . .

2. National Congress of American Indians draft position paper opposing Title IV transfer . . . .

Testimony of COLORADO RIVER INDIAN TRIBES before the Senate Select Committee on Indian Affairs Oversight on Indian Education, Washington, D.C., May 18-19, 1982.

This testimony is presented in behalf of the Colorado River Indian Tribes on the issue of Transfer of Title IV, Office of Indian Education to the Bureau of Indian Affairs.

INTRODUCTION

The Colorado River Indian Reservation, created by Executive Order in 1865, is located in Southwestern Arizona with a portion of it in California. Eighty (80%) percent of the 269,000 acre reservation is located in Arizona. The local public schools which provide educational services to the Indian children are also located in Arizona.

Parker Unified School District No. 27, located in Parker, Arizona, consists of three public elementary schools and one public high school. All four schools are located within the exterior boundaries of the Colorado River Indian Reservation. The total population of the district is approximately 1,900 students. Approximately twenty-eight (28%) percent have been identified as Indian students. The remainder of the non-Indian students live on or adjacent to the reservation. A 1980 United States Census of Population and Housing reports that there are 1,941 Indians and 6,640 non-Indians living on the Colorado River Indian Reservation. These statistics reflect only the populace residing on the Arizona portion of the Reservation and not the 600 tribal members living off the Reservation and the non-Indians residing in the California portion of the Reservation.

Fifty-seven (57) percent of the Indian population fall within the age category of 17 years or younger. Of the Indian students of school age, ninety-six percent attend the local public schools. The remaining four percent attend schools away from the area, such as BIA boarding schools, private institutions and schools for children with exceptional educational needs. The school district employs 122 certified staff which is limited to administrators, teachers and counselors. Six employees or five (5%) percent of the certified staff have been identified as Indian. Two are members of the Colorado River Indian Tribes. All six Indian employees are employed as teachers in the local school district.

POSITION OF COLORADO RIVER INDIAN TRIBES

The Colorado River Indian Tribes would like the Title IV, Indian Education program to be retained with the Office of Indian Education, within the Department of Education, and oppose a merger of Title IV and BIA educational services.

The Tribes feel that Title IV, the Indian Education Act, which was enacted by the 92nd Congress was enacted for a a specific reason, that reason being, to have quality educational experiences for Indian students in public schools.

Our local school district, Parker Unified School District No. 27, is currently a participant in a Title IV, Part A program. A major component of the program is a tutorial service to approximately 55% of the 520 Indian students in the school district. This program was instituted as a result of Indian students testing below the national and state levels in every learning category as administered in the California Achievement Tests, taken April 1, 1981. (See attachement 1)

Part of this failure is believed to be contributed by bi-cultural factors. Although the majority of the Indian children are not bilingual, the bi-cultural or multi cultural factors affect the students understanding and use of the English language. This in turn affects the student's reading vocabulary and comprehension and extends to other areas of learning such as math, history, and science. (See attachment 1).

To attempt to deal with these cultural differences, the Colorado River Indian Tribes administers a Johnson O'Malley program for Indian students attending the local school district. The Johnson O'Malley programs consists of cultural enrichment components such as science and historical tours, instrument rental for participation in school bands and summer school. The Johnson O'Malley summer school provides supplemental education to Indian students of the school district, in areas where Indian students have shown deficiencies such as math, reading, and English. (See attachment 1). The grade levels range from First to Sixth, with the average attendance being 300 Indian students, more than 50% of the school districts Indian student population.

CONCLUSION

As evidenced, the Title IV Indian Education program and Johnson O'Malley program (Bureau of Indian Affairs) provide two distinct services to Indian students of our local school district. This Tribe, Colorado River Indian Tribes, believe this is as it should be, and is in full agreement with the draft prepared by the National Congress of American Indians which opposes the transfer of Title IV program to the Bureau of Indian Affairs. The National Congress of American Indians opposition stems from the fact that Title IV and Bureau of Indian Affairs educational services differ. Title IV aids students from a variety of Indian backgrounds and primarily serves public schools. The Bureau of Indian Affairs provides service to members of federally recognized tribes and serves schools located on or near the reservation including Bureau of Indian Affairs Schools, Tribal Schools, and Johnson O'Malley programs for Indian students in public schools. For further information on the National Congress of American Indian's position, (See Attachment 2).

It is the opinion of the Colorado River Indian Tribes that the Administration has not responded to the issues, developed a plan for either implementation of the transfer, the capacity of the Bureau of Indian Affairs to take on such a transfer, or for the operation of affected programs or acknowledged that problems and conflicts of interest will emerge from any transfer plan. Colorado River Indian Tribes final concern regarding the transfer is, any plan must be reviewed by the federally recognized tribes, whose concern must be heeded, before a decision is carried out. If this is not done, there will be grave problems in Indian education.

I have prepared a packet of supplementary materials which I will leave for your consideration on behalf of Colorado River Indian Tribes. I thank you for your time and consideration.

-ATTACHMENT-1

PARKER UNIFIED SCHOOL DISTRICT NO. 27

CALIFORNIA ACHIEVEMENT TESTS

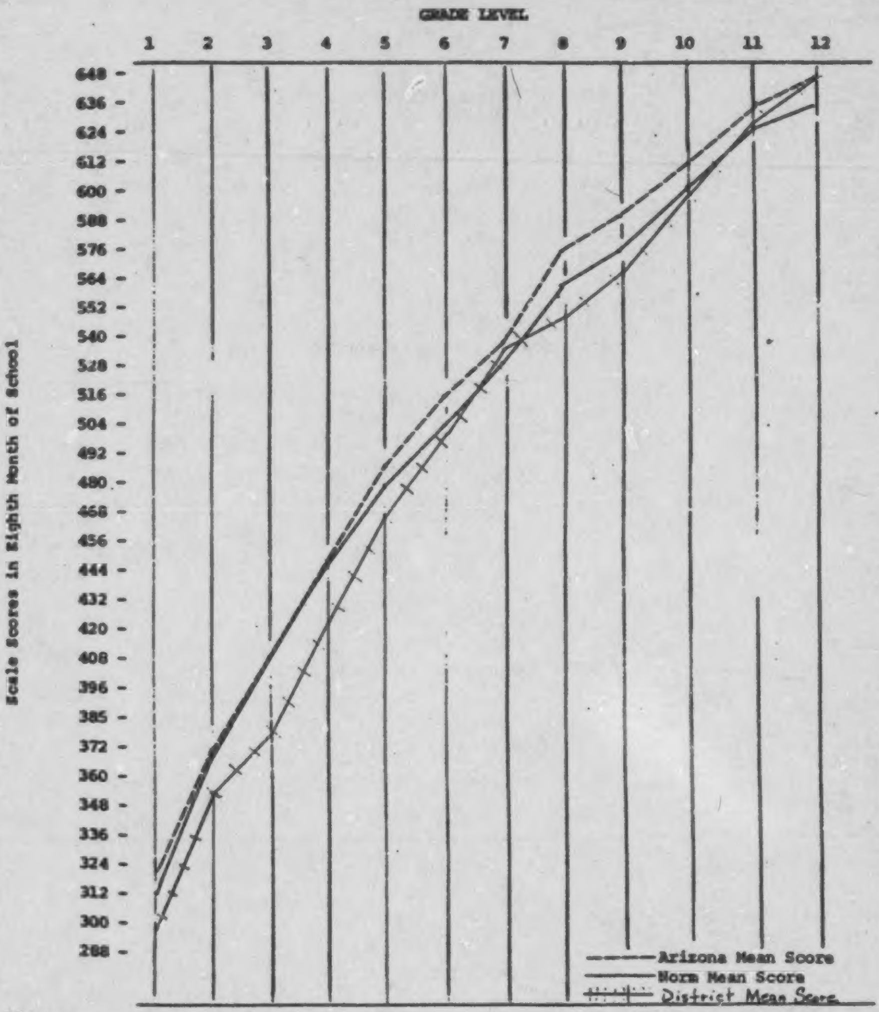
DISTRICT SUMMARY OF RESULTS

Tests Administered in April, 1981

COMPARISON REPORT
Mean Scale Scores Compared With National and State Scores

Figure 1

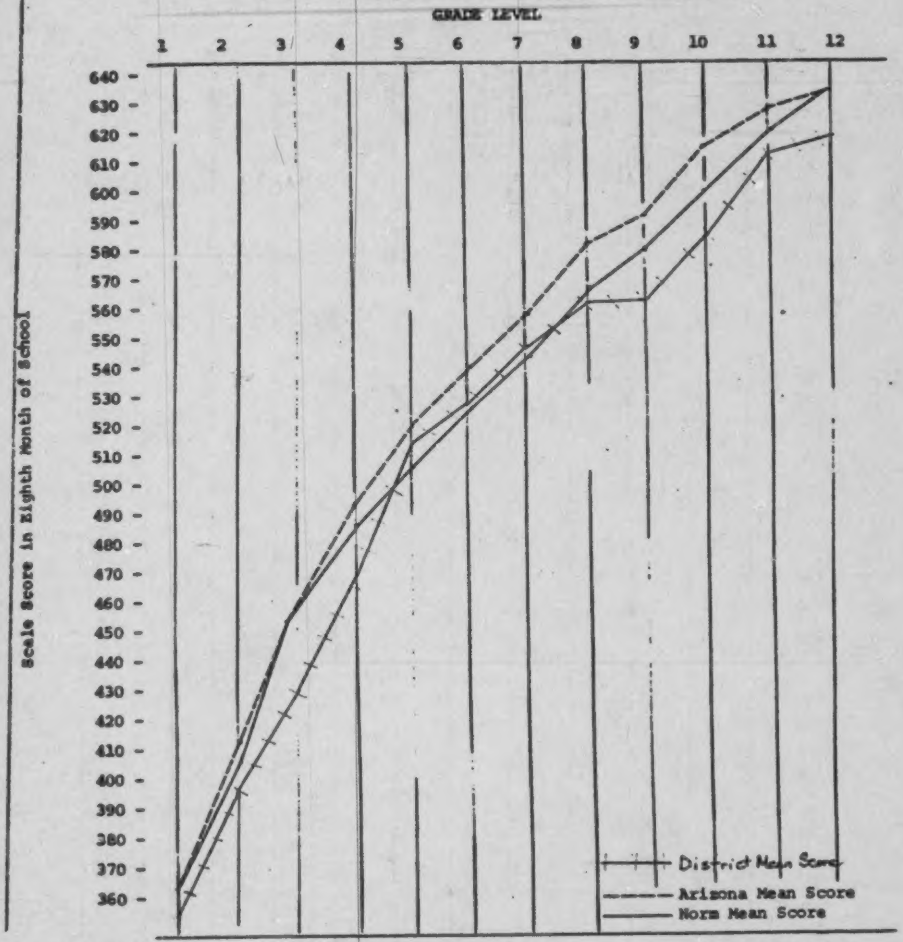
Mean Scale Scores for All Arizona Pupils and CAT-C Norm Group Pupils in the Eighth Month of School - TOTAL READING



AZ Mean Score	321	370	407	449	485	513	543	571	588	611	631	643
Norm Mean Score	312	366	406	446	474	503	526	556	574	599	622	632
District Mean Score	298	353	378	422	466	497	536	546	565	596	626	643

Figure 2

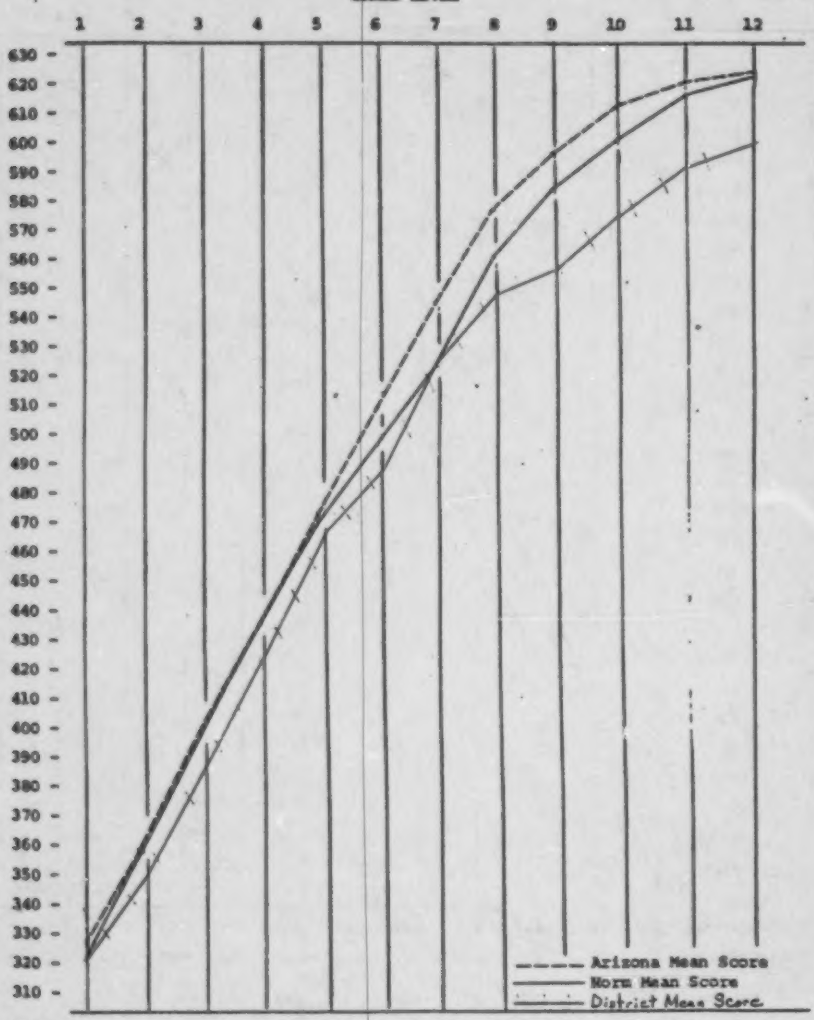
Mean Scale Scores for All Arizona Pupils and CAT-C Norm Group Pupils in the Eighth Month of School - TOTAL GRAMMAR



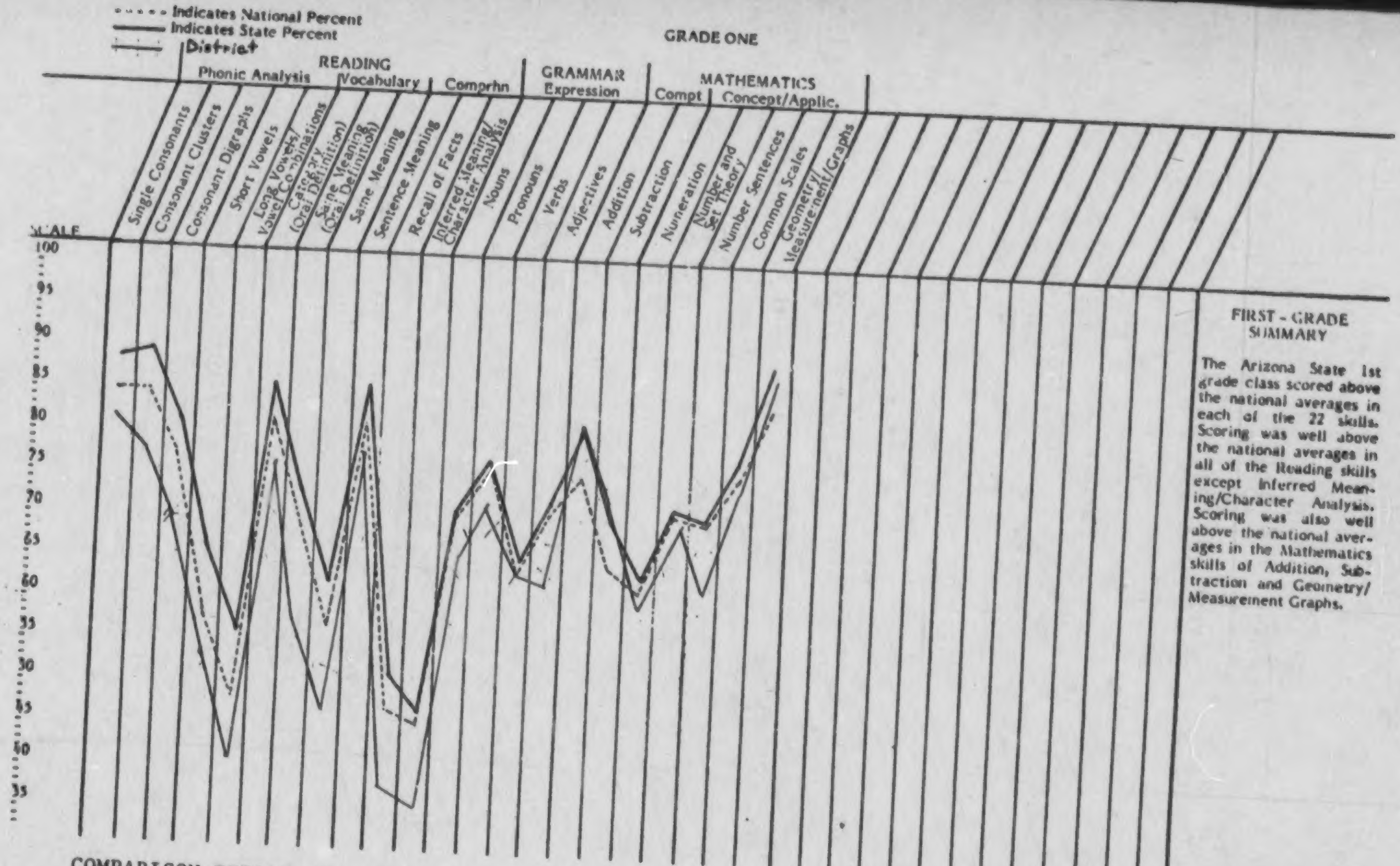
AZ Mean Score	362	411	451	491	520	540	556	579	591	612	626	630
Norm Mean Score	362	406	450	485	506	523	542	566	580	600	620	629
District Mean Score	352	395	430	470	515	525	545	561	561	585	611	617

Figure 3

Mean Scale Scores for All Arizona Pupils and CAT-C Norm Group Pupils in the Eighth Month of School - TOTAL MATHEMATICS



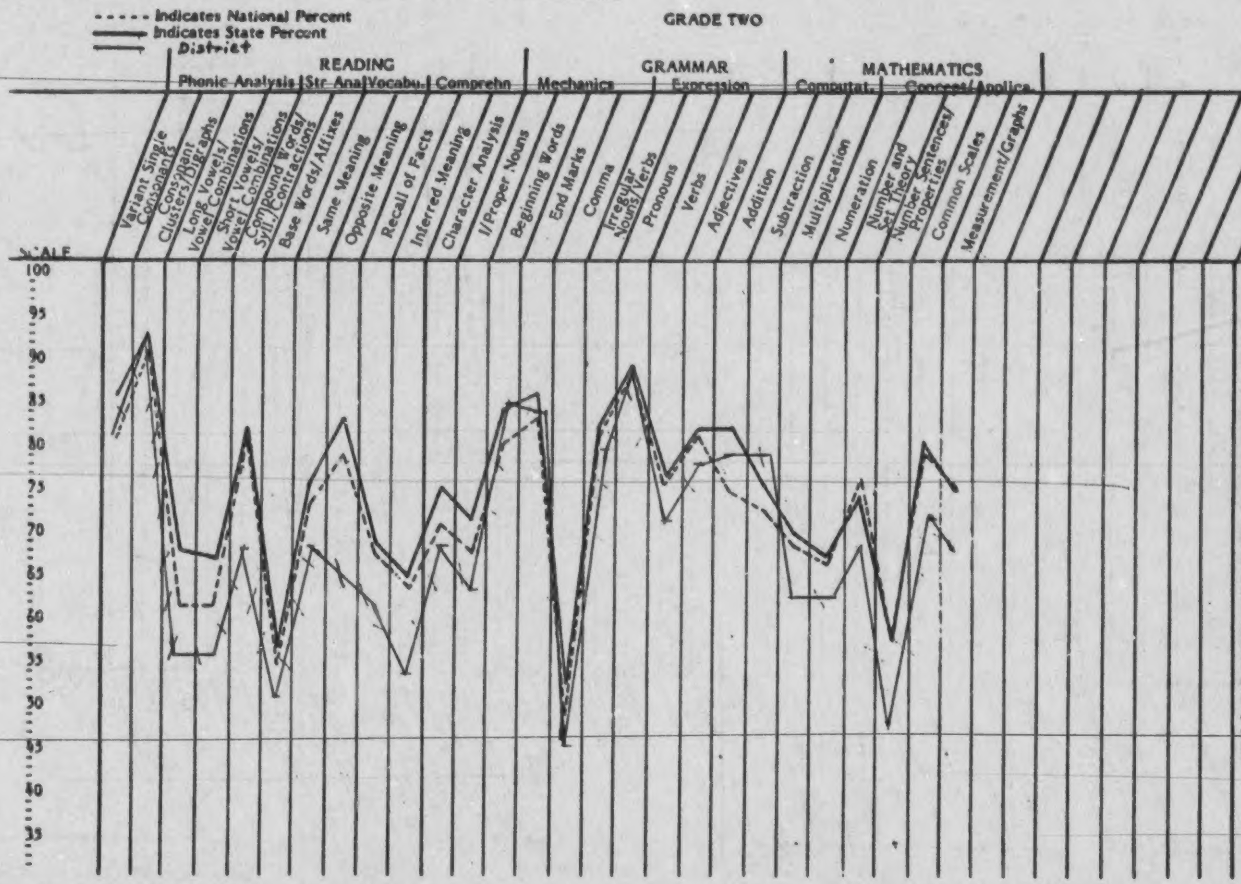
z Mean Score	323	359	397	434	469	508	541	575	593	611	622	625
m Mean Score	318	357	399	434	467	496	521	559	580	600	617	623
strict Mean Score	319	350	388	424	465	489	521	548	557	571	591	598



FIRST - GRADE SUMMARY

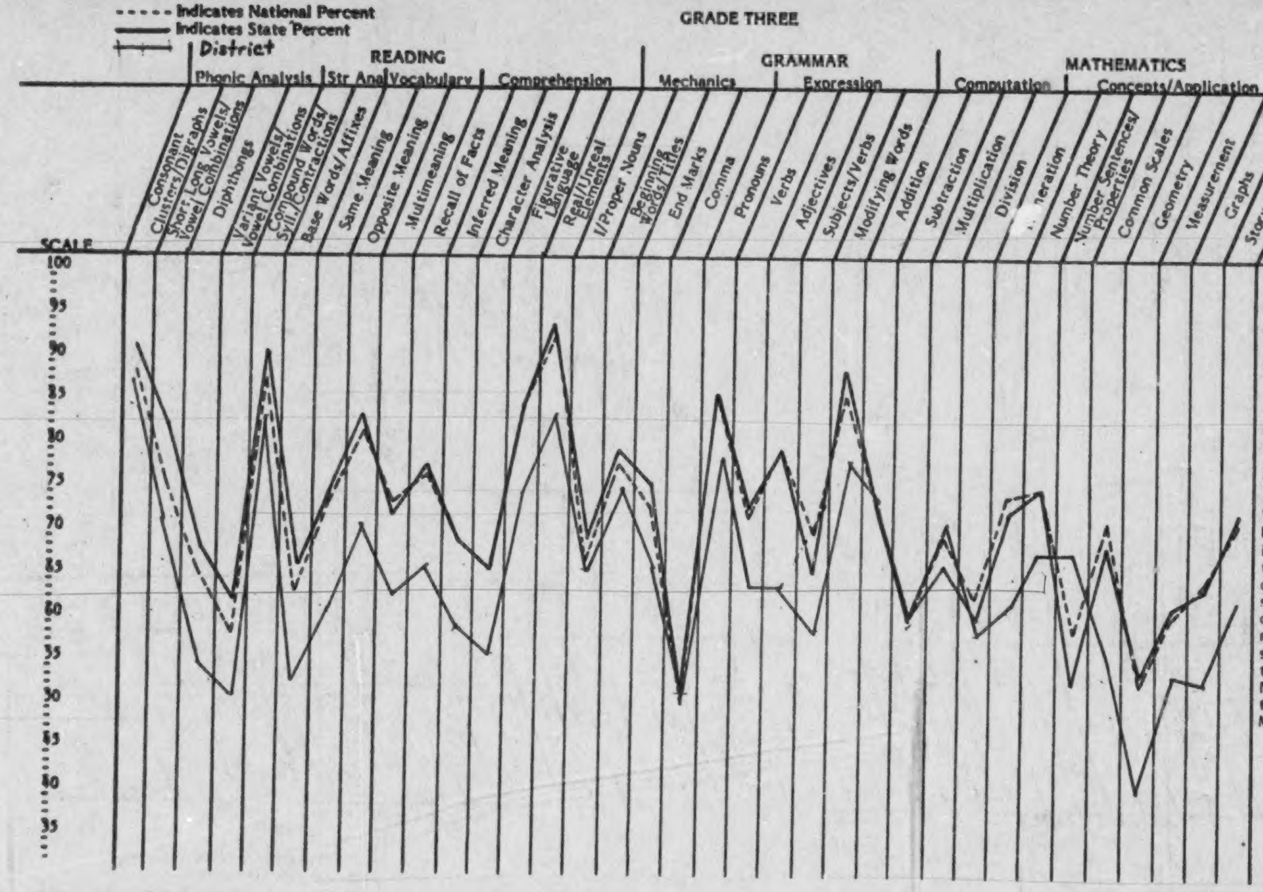
The Arizona State 1st grade class scored above the national averages in each of the 22 skills. Scoring was well above the national averages in all of the Reading skills except Inferred Meaning/Character Analysis. Scoring was also well above the national averages in the Mathematics skills of Addition, Subtraction and Geometry/Measurement Graphs.

COMPARISON REPORT--Percent of items correct compared with National and State averages.



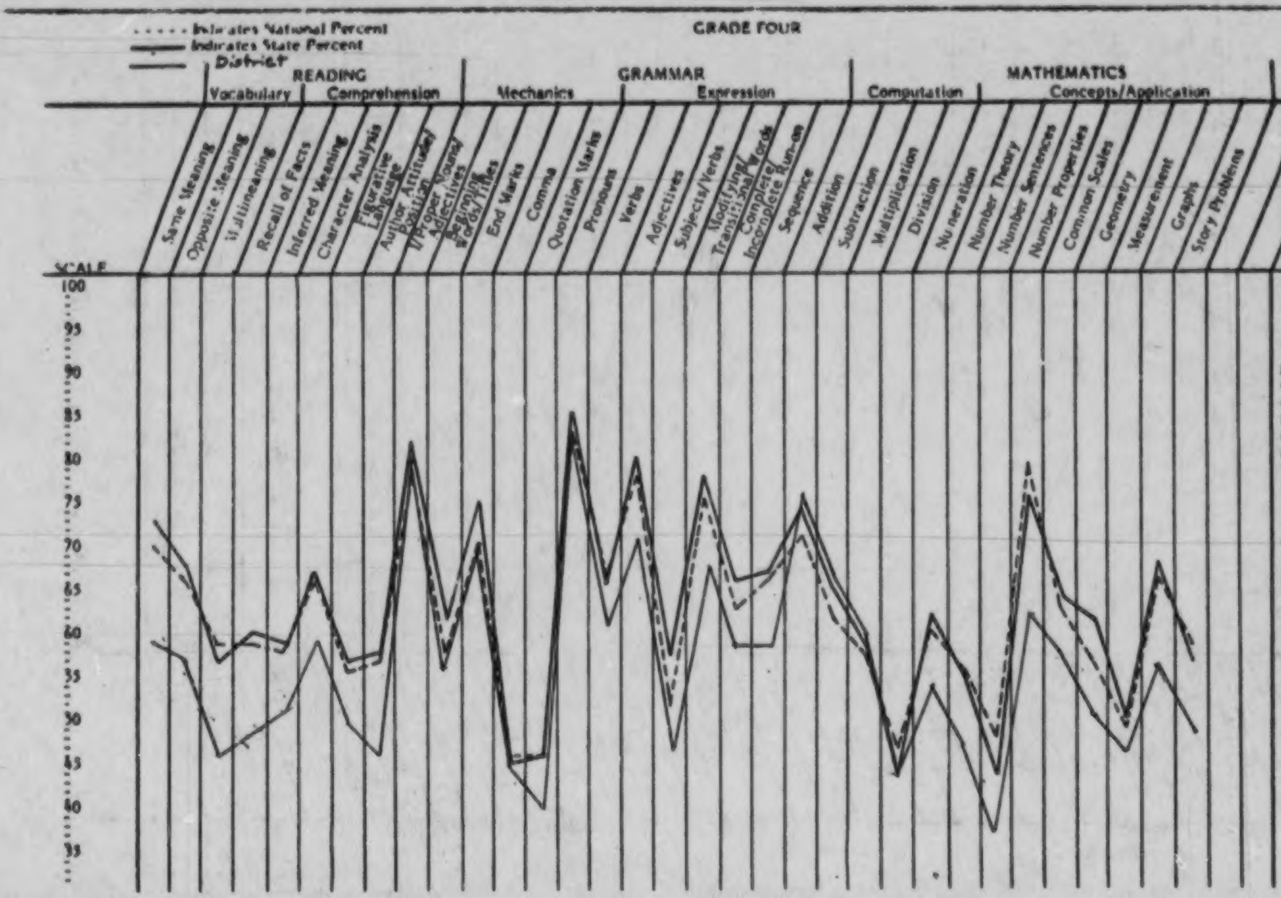
SECOND - GRADE SUMMARY

The Arizona State 2nd grade class scored above the national averages in 24 of the 27 skills. Scoring was well above the national averages in all Phonic Analysis skills except Consonant Clusters/Digraphs. Scoring was also well above national averages in Opposite Meaning and Character Analysis as well as all the Grammar Mechanics skills. Scoring was slightly below the national averages in 3 Mathematics skills: Number and Set Theory, Number Sentences/Properties and Measurement/Graphs. Addition and Subtraction scores were well above the national averages.



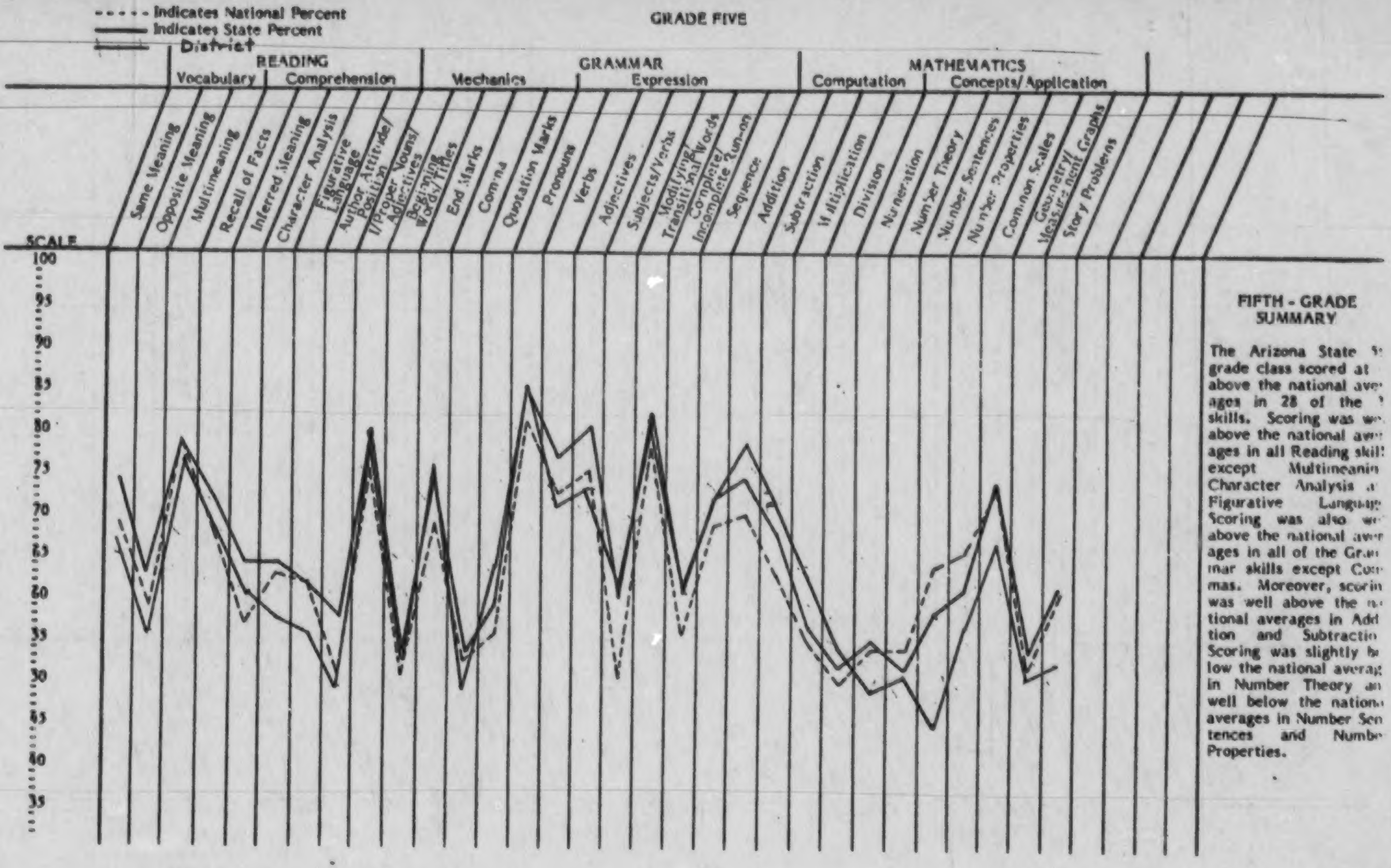
THIRD - GRADE SUMMARY

The Arizona State grade class scored at above the national ave- ages in 27 of the skills. Scoring was above national averag in all of the Phon Analysis skills in add tion to Base Word Affixes and Modifyi Words. Scoring was below national averag in Subjects/Verbs an the 6 Mathematics skil of Multiplication, Div sion, Number Senten ces/Properties and Com mon Scales. Scoring slightly below the n tional averages Numeration, Graphs an the Reading skill Multimeaning.



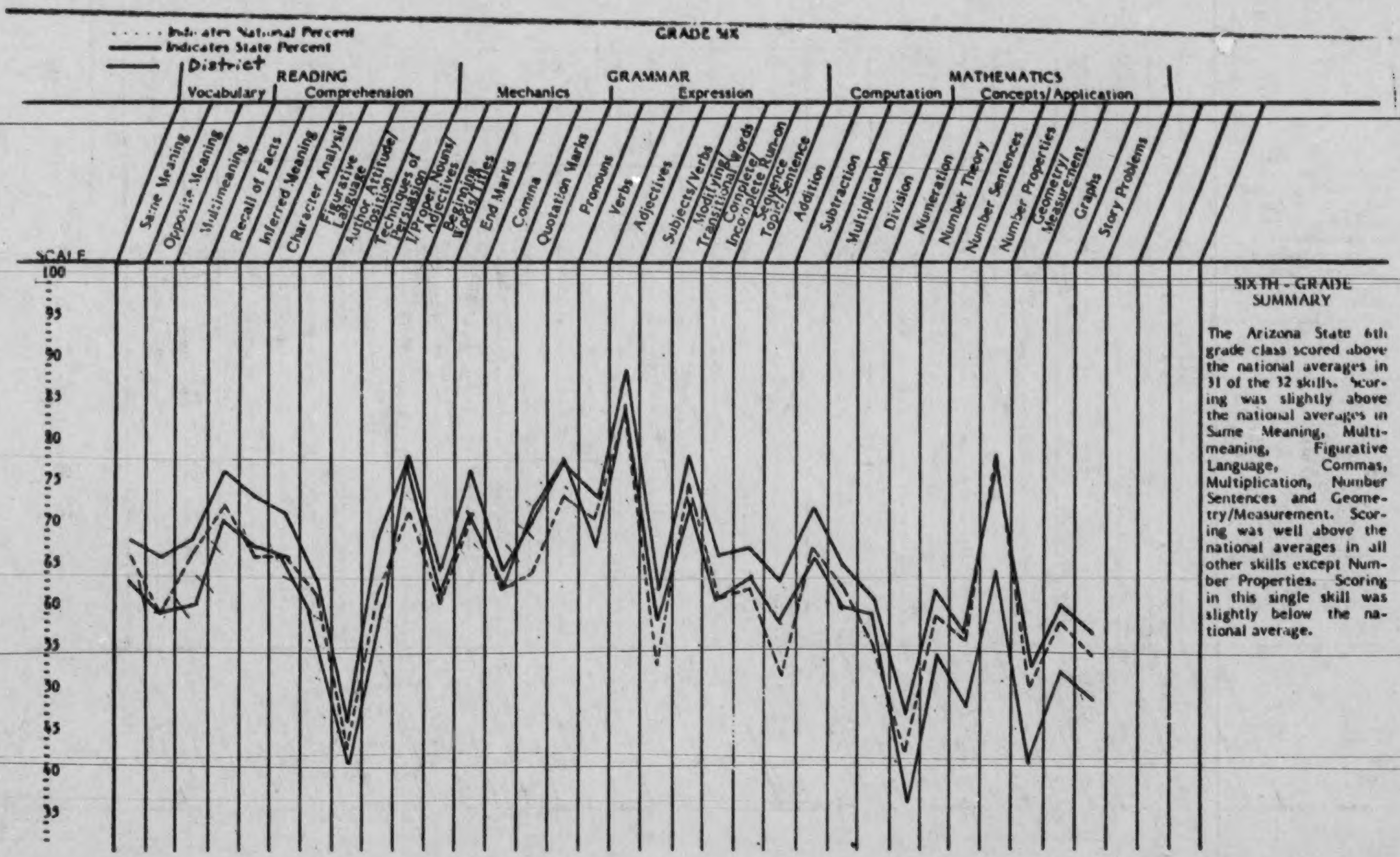
FOURTH - GRADE SUMMARY

The Arizona State 4th grade class scored at or above the national averages in 25 of the 33 skills. Scoring was well above the national averages in Same Meaning, I/Proper Nouns/Adjectives, Beginning Words/Titles and End Marks. Scoring was also well above national averages in Subjects/Verbs, Complete/Incomplete Run-on, Addition, Subtraction and Geometry. Scoring was well below the national averages in 3 Mathematics skills: Division, Number Sentences and Number Properties. Scoring was slightly below the national averages in Multimeaning, Commas, Verbs, Number Theory and Story Problems.



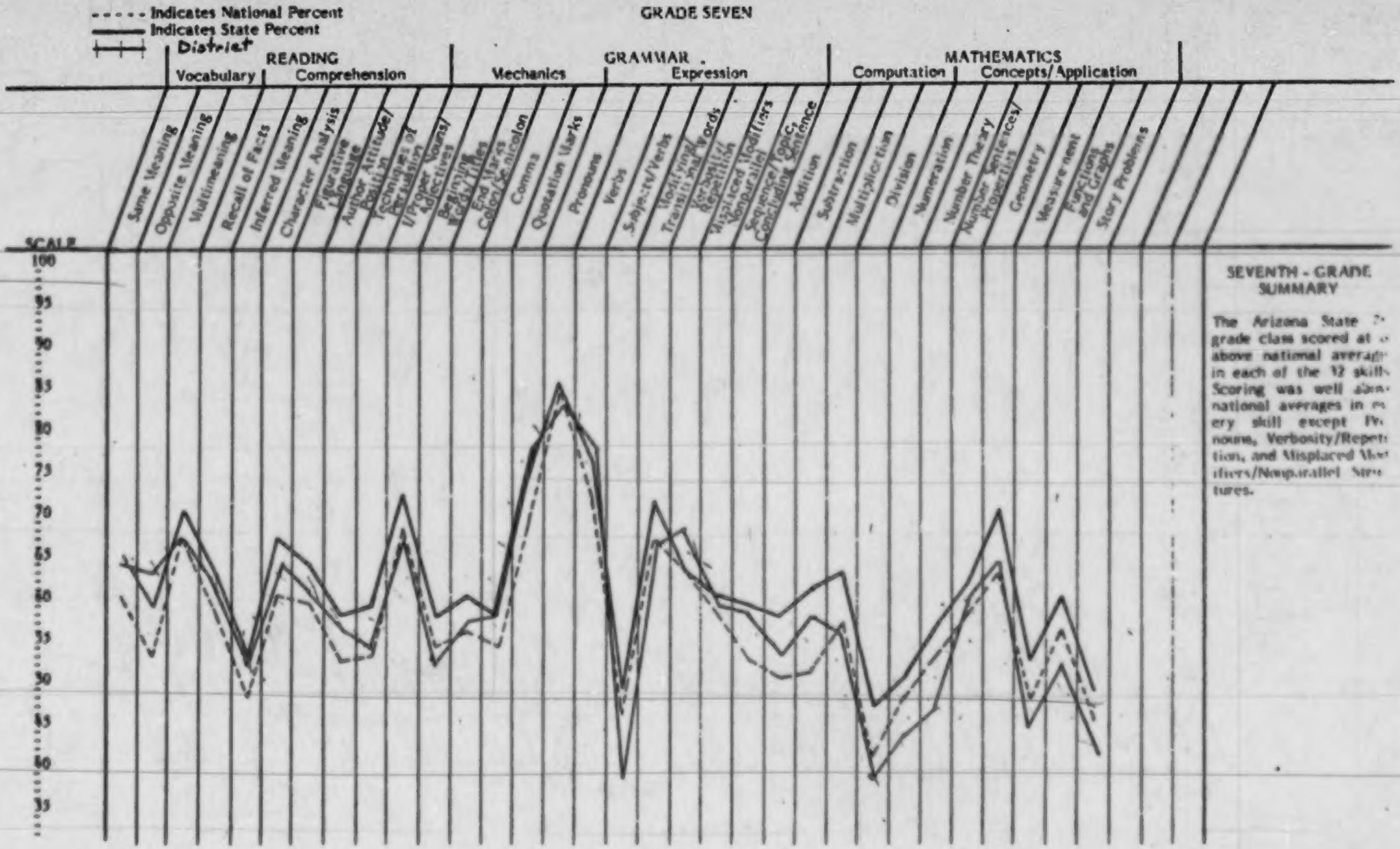
FIFTH - GRADE SUMMARY

The Arizona State
grade class scored at
above the national ave
ages in 28 of the
skills. Scoring was we
above the national ave
ages in all Reading skil
except Multimeanin
Character Analysis a
Figurative Languag
Scoring was also we
above the national ave
ages in all of the Gra
mar skills except Co
mas. Moreover, scorin
was well above the na
tional averages in Add
tion and Subtractio
Scoring was slightly be
low the national averag
in Number Theory an
well below the nation
averages in Number Sen
tences and Numbe
Properties.



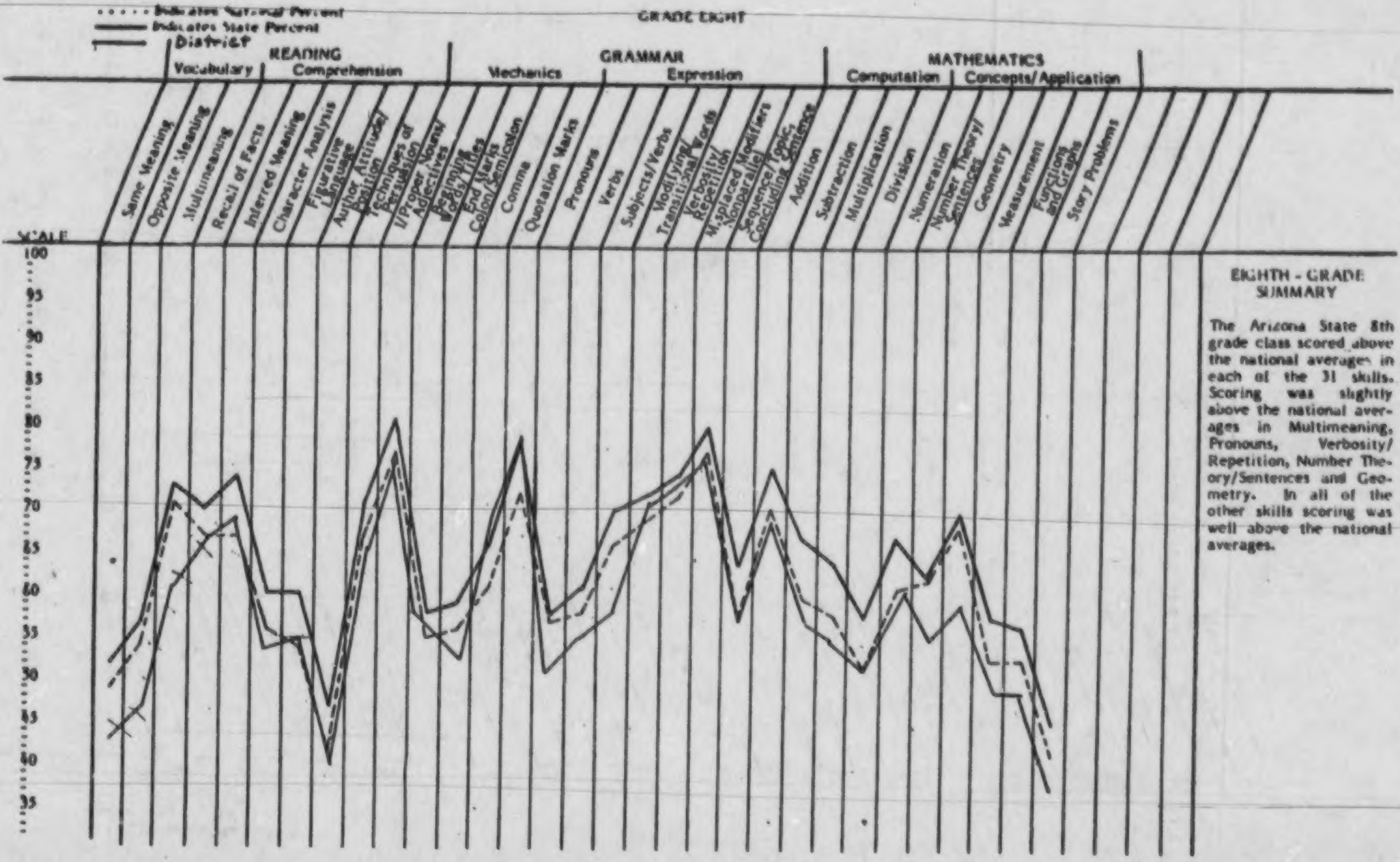
SIXTH - GRADE SUMMARY

The Arizona State 6th grade class scored above the national averages in 31 of the 32 skills. Scoring was slightly above the national averages in Same Meaning, Multimeaning, Figurative Language, Commas, Multiplication, Number Sentences and Geometry/Measurement. Scoring was well above the national averages in all other skills except Number Properties. Scoring in this single skill was slightly below the national average.



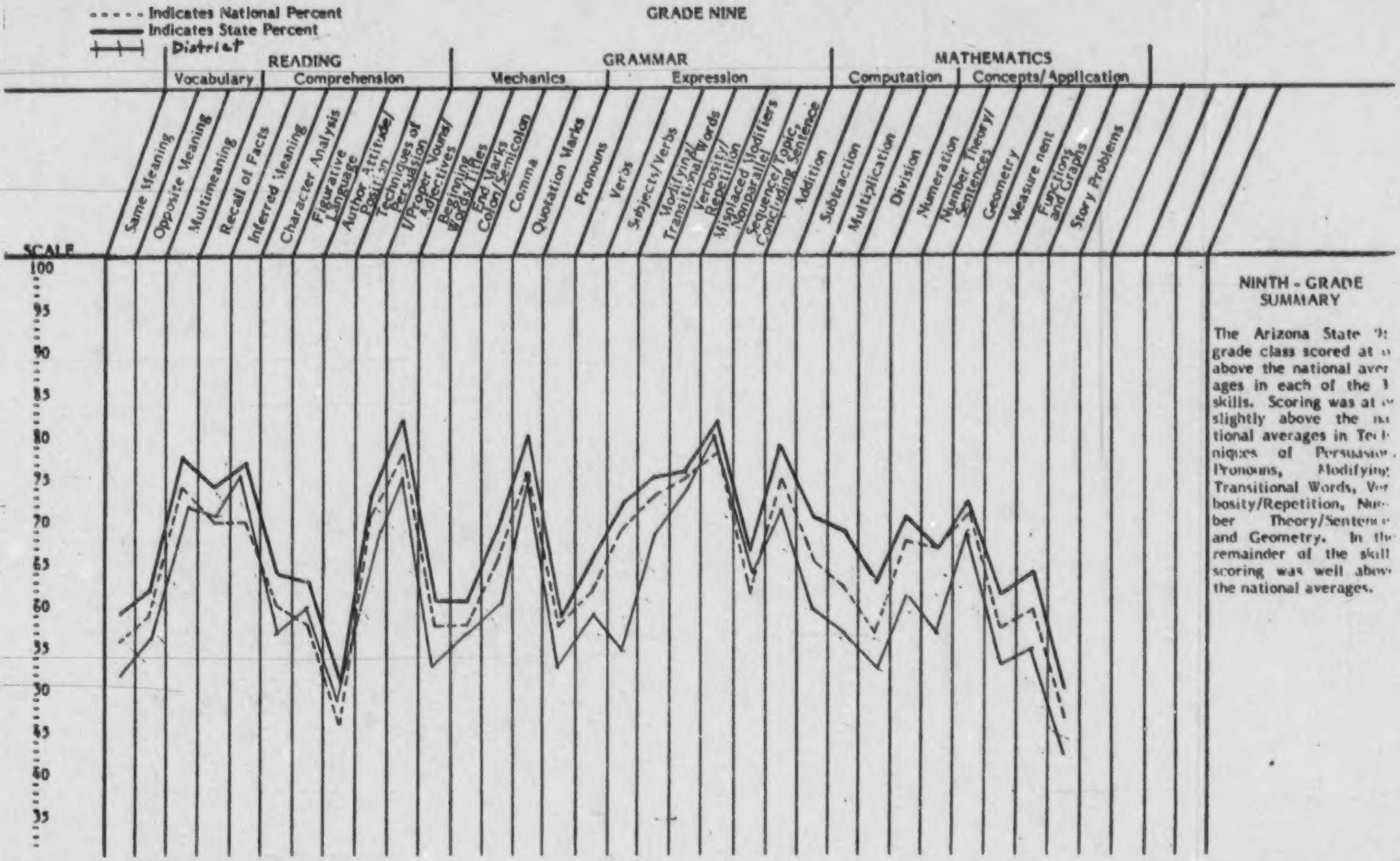
SEVENTH - GRADE SUMMARY

The Arizona State 7 grade class scored at o above national averag in each of the 12 skill Scoring was well abo national averages in e ery skill except Pr nouns, Verbosity/Repet tion, and Misplaced Mo ifiers/Nonparallel Stru tures.



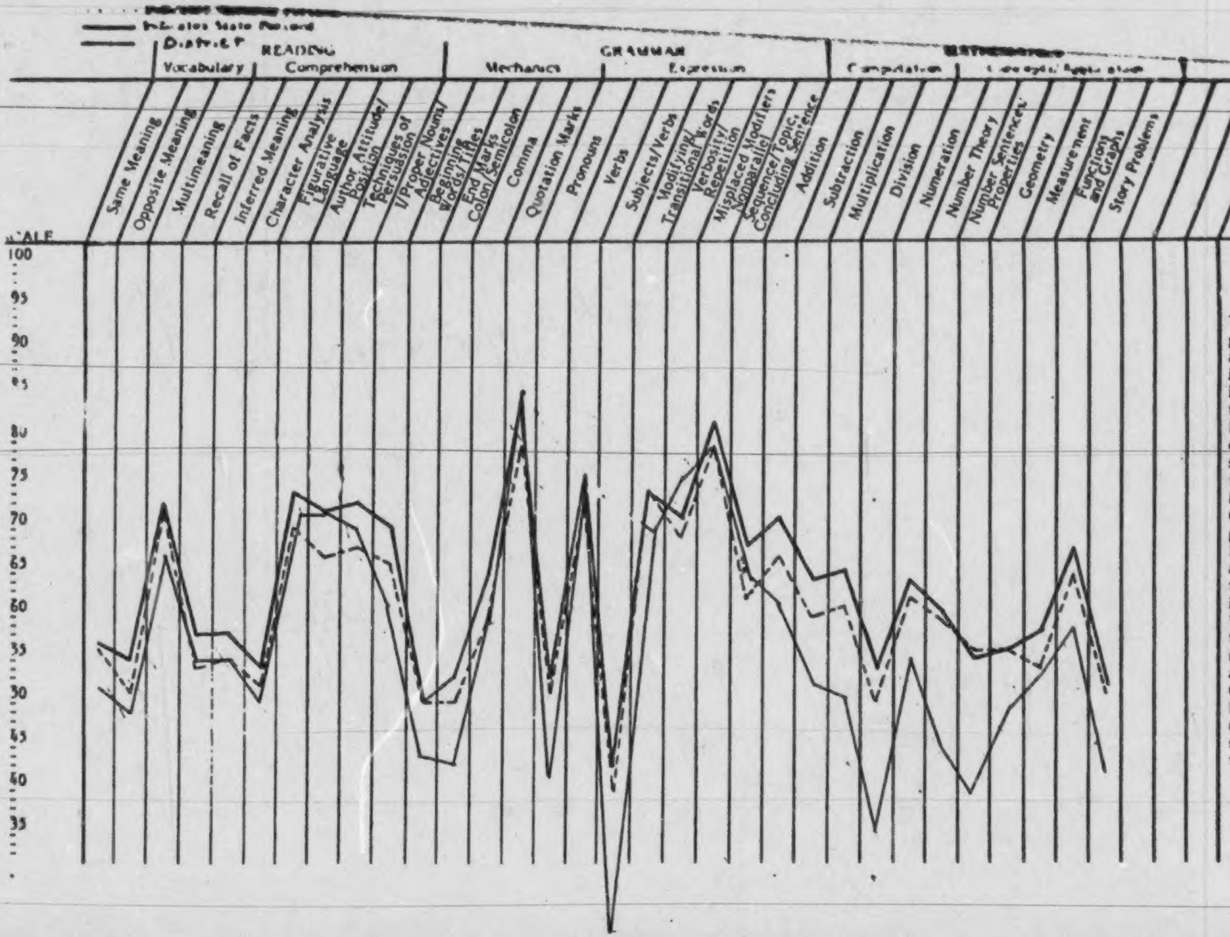
EIGHTH - GRADE SUMMARY

The Arizona State 8th grade class scored above the national averages in each of the 31 skills. Scoring was slightly above the national averages in Multimeaning, Pronouns, Verbosity/Repetition, Number Theory/Sentences and Geometry. In all of the other skills scoring was well above the national averages.



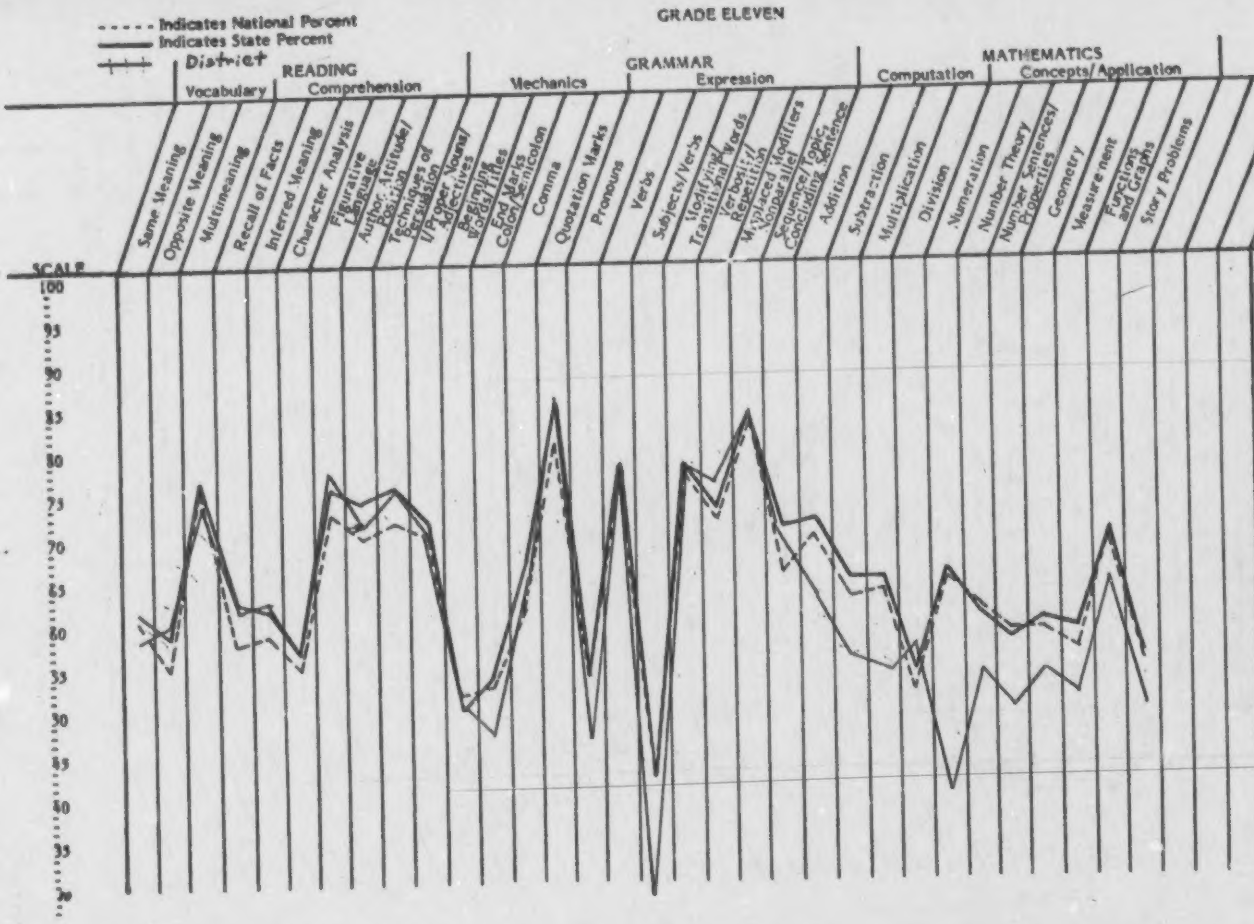
NINTH - GRADE SUMMARY

The Arizona State 9 grade class scored at above the national averages in each of the skills. Scoring was at slightly above the national averages in Techniques of Persuasion, Pronouns, Modifying Transitional Words, Verbosity/Repetition, Number Theory/Sentences and Geometry. In the remainder of the skill scoring was well above the national averages.



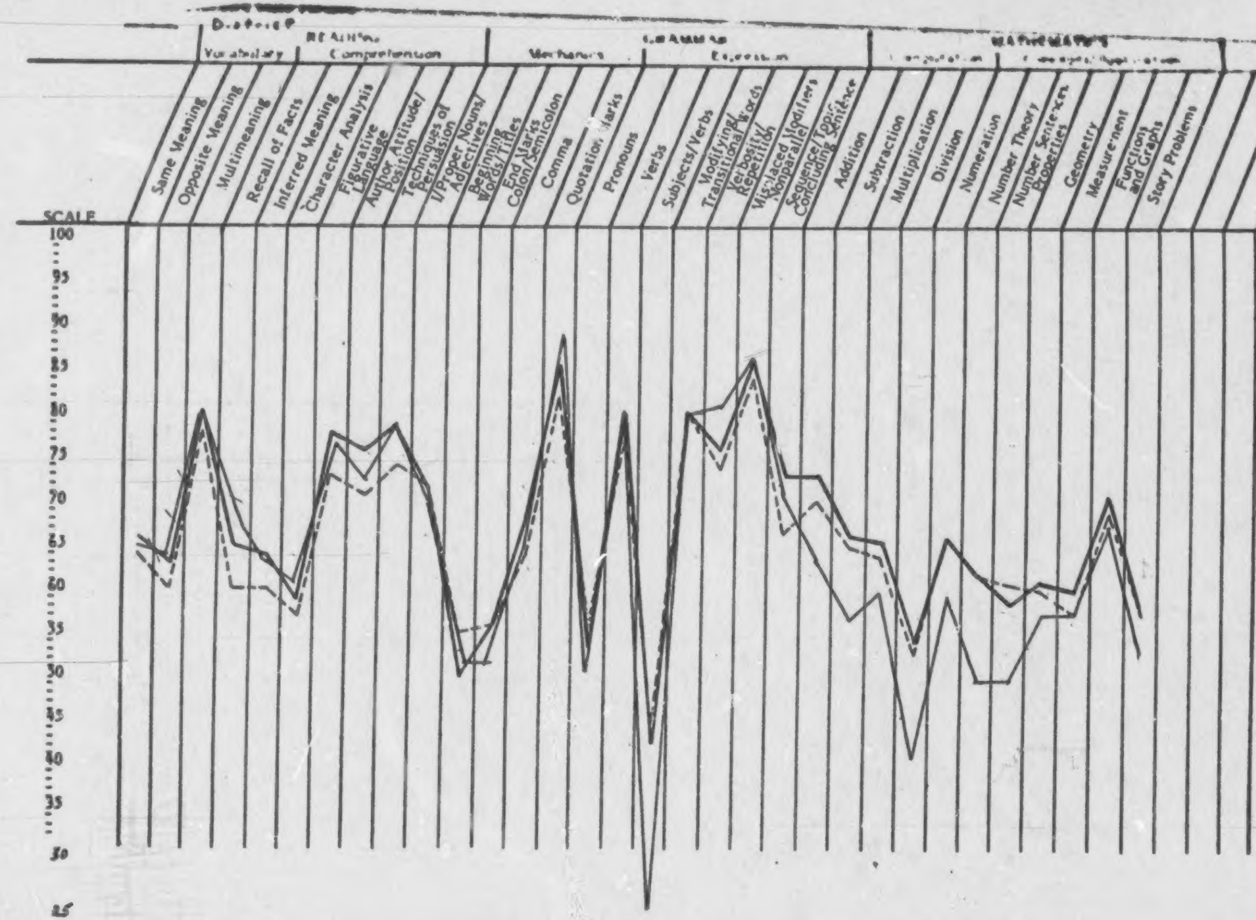
TENTH - GRADE SUMMARY

The Arizona State 10th grade class scored at or above national averages in 31 of 32 skills. Scoring was slightly below the national average in Number Sentences/Properties. Scoring was at or slightly above the national averages in Same Meaning, Multimeaning, Character Analysis, Beginning Words/Titles and Pronouns. Scoring was also at or slightly above the national averages in Modifying/Transitional Words, Verbosity/Repetition, and the 4 Mathematics skills of Numeration, Number Theory, Geometry and Story Problems. In the remainder of the skills scoring was well above the national averages.



ELEVENTH - GRAD
SUMMARY

The Arizona State 11
grade class scored at
above the national av
ages in 29 of the
skills. Scoring was
above the national av
ages in Opposite Me
ing and all the Read
Comprehension skills
cept Character Analy
Scoring was also
above the national av
ages in Commas, Quot
tion Marks, Sequen
Topic Concluding S
tence and the Math
matics skill of Measu
ment. Scoring
slightly below nation
averages in Beginnin
Words/Titles, Numb
Theory and Number Se
tences/Properties.



TWELFTH - GRADE SUMMARY

The Arizona State 12tl grade class scored at o above the national aver ages in 28 of the 3 skills. Scoring was wel above the national aver ages in all the Readin skills except Sam Meaning, Multimeanin and Character Analysis Scoring was also wel above the national aver ages in Commas, Quo tation Marks, Verbs, Se quence/Topic Concludin Sentence and the Mathe matics skill of Addition Scoring was well belov national averages i Beginning Words/Titles Scoring was slightly be low the national averag in Pronouns, Subjects, Verbs and the Mathematics skill of Numbe Sentences/Properties.

```
COUNTY   YUMA
DISTRICT PARKER SCHL DISTRICT                                  ARIZONA
SCHOOL                                    ANALYSIS OF VARIABLES REPORT
CLASS
GRADE    1.8
LEVEL    11 FORM:   C                                                  DISTRICT REPORT

                                     PHONIC READINGREADINGREADINGGRAMMAR MATH   MATH   MATH  BATTERY
                                      ANAL   VOCAB  COMPR  TOTAL   EXPR  COMPUT CON/APP TOTAL  TOTAL
RACIAL/ETHNIC BACKGROUND                19.7   11.7   12.7   44.2   15.2   17.0   29.9   46.8  106.1
  = WHITE, NOT OF HISPANIC ORIGIN    34336.234329.934431.932531.937438.429523.135322.033518.533020.8
                                     61      60 2.0 56 1.9 60 2.0 57 1.9 73 2.2 69 2.2 74 2.2 66 2.0
                                          42     41     42     41     42     42     41     41     41

RACIAL/ETHNIC BACKGROUND                12.7    6.0    9.0   27.7    9.7   12.3   27.0   39.3   76.7
  = BLACK, NOT OF HISPANIC ORIGIN    28062.728438.730920.426155.030735.725750.134047.131440.628546.5
                                     16      12 1.0 27 1.5 14 1.2 15 1.0 27 1.5 56 1.9 44 1.7 17 1.3
                                           3      3      3      3      3      3      3      3      3

RACIAL/ETHNIC BACKGROUND                15.8    8.8   10.1   34.7   12.8   15.0   25.0   40.0   87.2
  = AMERICAN INDIAN OR ALASKAN NATIVE 31244.331336.431737.929338.834543.028129.032528.731620.630624.9
                                     36      30 1.5 32 1.6 32 1.6 36 1.6 58 1.9 40 1.6 47 1.8 36 1.6
                                          43     43     43     43     43     42     43     42     42

RACIAL/ETHNIC BACKGROUND                19.0   10.0   13.0   42.0   16.0   15.0   29.0   44.0  102.0
  = ASIAN OR PACIFIC ISLANDER        337 0.0327 0.0350 0.0320 0.0383 0.0276 0.0344 0.0323 0.0323 0.0
                                     56      44 1.7 62 1.9 56 1.9 64 2.0 52 1.8 60 2.0 58 1.9 57 1.9
                                           1      1      1      1      1      1      1      1      1

RACIAL/ETHNIC BACKGROUND                12.8    6.8    9.1   29.7   12.1   14.7   22.2   37.0   80.5
  = HISPANIC                         28939.829340.630543.127439.433941.028028.231133.930923.329923.6
                                     21      16 1.2 24 1.4 20 1.3 32 1.5 57 1.9 26 1.4 37 1.6 29 1.5
                                          41     41     40     38     40     42     43     42     37

RACIAL/ETHNIC BACKGROUND                17.5    9.0   13.5   40.0   12.0   15.5   23.5   39.0   91.0
  = UNKNOWN                          328 9.531625.0354 3.531314.034213.5279 2.5317 7.5313 4.5313 4.0
                                     48      33 1.6 65 2.0 49 1.8 34 1.5 56 1.9 32 1.5 43 1.7 44 1.7
                                           2      2      2      2      2      2      2      2      2
```

Analysis of Variables Report

Mean Scale Score
Percentile Rank of Mean Scale Score

Mean Raw Score
Standard Deviation of Scale Score
Grade Equivalent of Mean Scale Score
Number-Count

```
                     MEAN RAW SCORE
MEAN SCALE SCORE     STD DEV OF SS
PR OF MEAN SS        GE OF MEAN SS
                     N-COUNT
```

```
DATE        4/81
COUNTY      YUMA
DISTRICT    PARKER SCHL DISTRICT                           ANALYSIS OF VARIABLES REPORT
SCHOOL
CLASS
GRADE       2.8
LEVEL      12 FORM    C                                                                      DISTRICT REPORT

                                     PHONIC STRUCT READINGREADINGREADINGGRAMMARGRAMMARGRAMMAR MATH   MATH   MATH
                                      ANAL   ANAL   VOCAB  COMPR  TOTAL  MECH   EXPR   TOTAL COMPUT CON/APP TOTAL
RACIAL/ETHNIC BACKGROUND               18.8    7.9   11.9   14.0   52.5   14.7   16.8   31.4   21.0   29.1   50.1
  = WHITE, NOT OF HISPANIC ORIGIN    37434.637445.738036.739243.136941.843742.141838.441147.933726.037633.036223.9
                                      50     54     49 2.9 52 2.9 52 2.9 54 3.0 48 2.7 53 2.9 61 3.2 50 2.8 56 3.0
                                         55     55     55     55     55     55     55     55     55     55     55

RACIAL/ETHNIC BACKGROUND               19.0    9.0   12.0   14.0   54.0   11.0   17.0   28.0   19.0   24.0   43.0
  = BLACK, NOT OF HISPANIC ORIGIN    372 0.0395 0.0367 0.0383 0.0361 0.0396 0.0411 0.0382 0.0322 0.0350 0.0345 0.0
                                      49     68     40 2.5 45 2.7 46 2.7 26 2.1 43 2.6 33 2.4 44 2.9 27 2.1 35 2.5
                                          1      1      1 .    1      1      1      1      1      1      1      1

RACIAL/ETHNIC BACKGROUND               16.0    6.6   10.7   11.7   45.2   13.0   16.4   29.4   17.9   23.6   41.5
  = AMERICAN INDIAN OR ALASKAN NATIVE 35531.434850.036332.537035.634633.141836.441333.039435.432025.934825.134219.6
                                      37     34     37 2.4 36 2.4 36 2.4 40 2.5 45 2.6 41 2.6 41 2.8 25 2.1 31 2.4
                                         32     32     32     31     31     32     32     32     31     30     30

RACIAL/ETHNIC BACKGROUND
  = ASIAN OR PACIFIC ISLANDER

                                          0      0      0      0      0      0      0      0      0      0      0

RACIAL/ETHNIC BACKGROUND               15.8    5.0    9.6    9.5   41.9   12.7   13.9   26.5   18.0   22.4   40.1
  = HISPANIC                         35340.331356.635641.635239.733437.941544.238341.437350.531929.634231.633924.5
                                      36     15     32 2.3 25 2.0 28 2.2 38 2.5 27 2.0 28 2.2 40 2.8 21 1.9 28 2.3
                                         41     41     41     37     36     38     37     37     41     41     40

RACIAL/ETHNIC BACKGROUND
  = UNKHOWN

                                          0      0      0      0      0      0      0      0      0      0      0



                                                   | MEAN SCALE SCORE     MEAN RAW SCORE  |
                                                   | PR OF MEAN SS        STD DEV OF SS   |
                                                   |                      GE OF MEAN SS   |
                                                   |                      N-COUNT         |
                PARKER SCHL DISTRICT
                                                            ANALYSIS OF VARIABLES REPORT
         3.8
         13          C
                                                                                                          DISTRICT REPORT
                                       PHONIC STRUCT READINGREADINGREADINGGRAMMARGRAMMARGRAMMAR MATH   MATH   MATH
                                        ANAL   ANAL   VOCAB  COMPR  TOTAL  MECH   EXPR   TOTAL COMPUT CON/APP TOTAL
RACIAL/ETHNIC BACKGROUND                  14.8    8.3   11.4   20.0   54.5   14.6   19.4   34.1   26.5   28.1   54.7
  = WHITE, NOT OF HISPANIC ORIGIN      40854.539749.140946.241553.040254.748560.044565.745672.538340.440643.639637.1
                                       53     45      47 3.7 44 3.6 47 3.7 62 4.4 43 3.5 53 3.9 48 3.9 43 3.6 45 3.7
                                            68     68     68     68     68     68     68     68     68     68     68

RACIAL/ETHNIC BACKGROUND
  = BLACK, NOT OF HISPANIC ORIGIN

                                             0      0      0      0      0      0      0      0      0      0      0

RACIAL/ETHNIC BACKGROUND                  13.4    7.6    9.3   18.7   49.0   12.5   17.2   29.7   25.2   23.6   48.8
  = AMERICAN INDIAN OR ALASKAN NATIVE 39249.638143.138355.240154.138053.145952.141750.642359.237733.738738.738530.0
                                       42     35      29 3.0 34 3.2 32 3.2 43 3.6 26 2.7 33 3.2 42 3.7 29 3.1 35 3.5
                                            38     38     38     38     38     38     38     38     38     38     38

RACIAL/ETHNIC BACKGROUND                  18.0    9.0   14.0   26.0   67.0   19.0   23.0   42.0   39.0   42.0   81.0
  = ASIAN OR PACIFIC ISLANDER          433 0.0405 0.0443 0.0483 0.0445 0.0538 0.0474 0.0510 0.0453 0.0481 0.0467 0.0
                                       71     50      70 4.6 84 5.6 75 4.8 89 6.9 61 4.3 83 6.2 95 5.6 93 6.2 96 5.9
                                             1      1      1      1      1      1      1      1      1      1      1

RACIAL/ETHNIC BACKGROUND                  10.5    6.7    7.5   14.3   39.0   10.9   15.2   26.2   26.5   19.8   46.3
  = HISPANIC                           35741.336351.035842.636550.834445.443853.839748.439855.238133.037133.137827.2
                                       21     25      16 2.3 15 2.3 15 2.4 29 3.0 17 2.3 20 2.6 46 3.7 19 2.7 29 3.4
                                            53     53     53     53     53     52     53     52     53     53     53

RACIAL/ETHNIC BACKGROUND
  = UNKNOWN

                                             0      0      0      0      0      0      0      0      0      0      0



                                                         MEAN SCALE SCORE      MEAN RAW SCORE
                                                         PR OF MEAN SS         STD DEV OF SS
                                                                               OE OF MEAN SS
                                                                               N-COUNT
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          COUNTY    YUMA
          DISTRICT  PARKER SCHL DISTRICT                  ANALYSIS OF VARIABLES REPORT
          SCHOOL
          CLASS
          GRADE     4.8                                                                           DISTRICT REPORT
          LEVEL     14 FORM    C

                                        READINGREADINGREADINGGRAMMARGRAMMARGRAMMAR MATH   MATH   MATH
                                         VOCAB  COMPR  TOTAL  MECH   EXPR   TOTAL COMPUT CON/APP TOTAL
                                          19.9   24.0   43.9   16.3   26.8   43.0   27.1   27.3   54.4
RACIAL/ETHNIC BACKGROUND                44753.246258.244758.951560.149256.449562.644447.144747.744443.7
  = WHITE, NOT OF HISPANIC ORIGIN        49 4.7 51 4.9 50 4.8 59 5.5 52 4.9 56 5.3 64 5.4 52 4.9 58 5.2
                                            59     59     59     59     59     59     58     58     58

                                          14.7   19.7   34.3    9.0   22.0   31.0   21.3   20.3   41.7
RACIAL/ETHNIC BACKGROUND                41035.042752.440649.542861.445133.542948.541137.541521.541123.9
  = BLACK, NOT OF HISPANIC ORIGIN        25 3.7 31 3.9 28 3.8 13 2.7 28 3.7 21 3.3 39 4.5 29 3.8 32 4.2
                                             3      3      3      3      3      3      3      3      3

                                          16.4   19.9   36.4   14.3   22.7   37.0   21.7   21.0   42.7
RACIAL/ETHNIC BACKGROUND
  = AMERICAN INDIAN OR ALASKAN NATIVE   42142.343444.341743.349147.746250.046248.541442.341637.841434.9
                                         32 4.0 35 4.0 33 4.0 44 4.5 34 3.9 36 4.1 42 4.6 29 3.9 34 4.3
                                            46     46     46     47     47     47     46     46     46

                                          15.0   14.0   29.0   14.0   17.0   31.0   24.0   12.0   36.0
RACIAL/ETHNIC BACKGROUND                417 0.0407 0.0401 0.0485 0.0427 0.0437 0.0423 0.0379 0.0400 0.0
  = ASIAN OR PACIFIC ISLANDER            29 3.9 22 3.4 25 3.7 40 4.4 18 3.0 24 3.5 48 4.8 10 2.9 24 3.9
                                             1      1      1      1      1      1      1      1      1

                                          12.3   15.6   28.2   12.3   21.0   33.6   23.4   17.0   40.4
RACIAL/ETHNIC BACKGROUND                39638.240653.039043.846854.044954.444655.342248.939838.440737.4
  = HISPANIC                             19 3.4 21 3.3 20 3.5 31 3.8 27 3.6 28 3.7 47 4.7 18 3.4 29 4.0
                                            38     39     38     39     38     38     38     38     38

                                          16.0   17.0   33.0   13.0   22.0   35.0   24.0    7.0   31.0
RACIAL/ETHNIC BACKGROUND                422 0.0424 0.0412 0.0475 0.0455 0.0451 0.0423 0.0341 0.0390 0.0
  = UNKNOWN                              32 4.0 30 3.8 31 3.9 35 4.0 30 3.8 31 3.8 48 4.8  2 1.9 18 3.6
                                             1      1      1      1      1      1      1      1      1



                                                          MEAN SCALE SCORE     MEAN RAW SCORE
                                                          PR OF MEAN SS        STD DEV OF SS
                                                                               GE OF MEAN SS
                                                                               N-COUNT
```

```
              YUMA
              PARKER SCHL DISTRICT
                                                           ANALYSIS OF VARIABLES REPORT
              5.8
            15        C                                                                                   DISTRICT REPORT

                                      READINGREADINGREADINGGRAMMARGRAMMARGRAMMAR MATH   MATH   MATH
                                       VOCAB  COMPR  TOTAL   MECH   EXPR  TOTAL COMPUT CON/APP TOTAL
RACIAL/ETHNIC BACKGROUND                  24.7   29.0   53.6   17.6   30.9   48.7   27.5   29.3   57.3
  = WHITE, NOT OF HISPANIC ORIGIN      50749.351654.450553.654456.355158.754351.848346.848538.848435.3
                                       69 7.0 65 6.9 68 6.9 62 7.3 76 8.2 71 7.9 64 6.5 58 6.3 62 6.5
                                            57     57     57     58     57     57     57     56     56

RACIAL/ETHNIC BACKGROUND                  20.3   25.3   45.5   15.5   24.0   39.5   23.5   20.0   43.5
  = BLACK, NOT OF HISPANIC ORIGIN      46844.449136.047238.652231.748216.048914.545825.644234.844922.0
                                       45 5.5 51 5.9 48 5.7 49 5.9 36 4.6 40 5.0 47 5.7 29 4.7 36 5.3
                                             4      4      4      4      4      4      4      4      4

RACIAL/ETHNIC BACKGROUND                  18.2   20.5   38.7   15.3   25.0   40.3   26.2   19.0   45.2
  = AMERICAN INDIAN OR ALASKAN NATIVE  44846.046347.444745.752142.649249.049640.547641.743537.045230.9
                                       33 4.8 35 4.9 34 4.8 49 5.9 42 4.9 44 5.4 59 6.3 25 4.5 38 5.4
                                            40     40     40     40     40     40     39     39     39

RACIAL/ETHNIC BACKGROUND                  24.0   30.5   54.5   24.0   27.0   51.0   32.5   37.0   69.5
  = ASIAN OR PACIFIC ISLANDER          49430.052531.550633.064728.553289.558287.051111.552629.551820.5
                                       61 6.5 70 7.4 69 6.9 9712.2 67 7.3 87 9.9 81 7.4 82 8.0 84 7.7
                                             2      2      2      2      2      2      2      2      2

RACIAL/ETHNIC BACKGROUND                  16.4   19.6   36.2   15.2   25.4   40.6   25.8   20.1   45.9
  = HISPANIC                           43960.245555.143760.052049.949553.549853.147242.544139.245333.7
                                       28 4.5 31 4.6 29 4.5 48 5.8 44 5.2 45 5.5 57 6.2 29 4.7 39 5.4
                                            54     53     53     54     54     54     54     54     54

RACIAL/ETHNIC BACKGROUND
  = UNKNOWN

                                             0      0      0      0      0      0      0      0      0


                                                         MEAN RAW SCORE
                                       MEAN SCALE SCORE  STD DEV OF SS
                                       PR OF MEAN SS     OE OF MEAN SS
                                                         N-COUNT
```

```
          4/81
          YUMA
DISTRICT  PARKER SCHL DISTRICT
SCHOOL                                              ANALYSIS OF VARIABLES REPORT
CLASS
GRADE     6.8
LEVEL     16 FORM     C                                                                      DISTRICT REPORT

                                       READINGREADINGREADINGGRAMMARGRAMMARGRAMMAR MATH   MATH   MATH
                                        VOCAB  COMPR  TOTAL  MECH   EXPR   TOTAL COMPUT CON/APP TOTAL
RACIAL/ETHNIC BACKGROUND                 21.8   28.0   49.8   19.0   28.9   47.8   26.2   25.4   51.6
  = WHITE, NOT OF HISPANIC ORIGIN      52467.754079.453179.756355.154856.255155.651153.050046.450443.7
                                         62 7.9 64 8.0 64 8.0 63 8.4 64 8.0 64 8.1 59 7.4 51 6.8 55 7.2
                                           56     56     56     56     56     56     55     55     55

RACIAL/ETHNIC BACKGROUND                 21.0   28.3   49.3   19.7   30.3   50.0   23.3   19.3   42.7
  = BLACK, NOT OF HISPANIC ORIGIN      50932.154257.052143.258580.456138.856239.549570.546248.647654.6
                                         54 7.1 65 8.0 59 7.6 7410.0 71 8.6 70 8.6 50 6.9 28 5.4 37 6.2
                                            3      3      3      3      3      3      3      3      3

RACIAL/ETHNIC BACKGROUND                 18.1   23.4   41.5   18.1   25.4   43.5   22.4   20.4   42.8
  = AMERICAN INDIAN OR ALASKAN NATIVE 48545.750453.548949.855051.851442.452241.148450.347044.047640.3
                                         42 6.1 45 6.4 43 6.3 56 7.7 45 6.4 48 6.7 44 6.5 32 5.7 37 6.2
                                           37     37     37     37     37     37     37     37     37

RACIAL/ETHNIC BACKGROUND                 21.0   26.0   47.0   20.0   30.0   50.0   37.0   29.0   66.0
  = ASIAN OR PACIFIC ISLANDER          505 0.0513 0.0504 0.0565 0.0550 0.0555 0.0603 0.0520 0.0550 0.0
                                         52 7.0 50 6.8 51 6.8 64 8.5 65 8.1 66 8.3 9510.5 63 7.7 81 8.5
                                            1      1      1      1      1      1      1      1      1

RACIAL/ETHNIC BACKGROUND                 15.0   20.6   35.6   15.0   22.8   37.8   23.4   19.0   42.5
  = HISPANIC                           45844.248150.746246.651460.749252.649456.249260.146141.547543.4
                                         28 5.1 33 5.5 30 5.3 37 5.5 33 4.9 34 5.3 48 6.7 27 5.4 36 6.2
                                           47     47     47     47     47     47     48     47     47

-RACIAL/ETHNIC BACKGROUND                15.0   17.0   32.0   21.0   24.0   45.0   28.0   27.0   55.0
  = UNKNOWN                            460 0.0463 0.0453 0.0582 0.0499 0.0524 0.0521 0.0508 0.0513 0.0
                                         29 5.2 24 4.9 26 5.0 73 9.7 37 5.4 49 6.7 65 7.7 56 7.2 61 7.5
                                            1      1      1      1      1      1      1      1      1



                                                                  MEAN RAW SCORE
                                               MEAN SCALE SCORE   STD DEV OF SS
                                               PR OF MEAN SS      GE OF MEAN SS
                                                                  N-COUNT
```

```
        DATE      4/81
        COUNTY:   YUMA
        DISTRICT: PARKER SCHL DISTRICT                                                       ARIZONA
        SCHOOL:                                              ANALYSIS OF VARIABLES REPORT   PUPIL ACHIEVEMENT
        CLASS:                                                                                TESTING
        GRADE:    7.8
        LEVEL     17 FORM    C                                                             DISTRICT REPORT

                                     READINGREADINGREADINGGRAMMARGRAMMARGRAMMAR MATH   MATH   MATH
                                      VOCAB  COMPR  TOTAL  MECH   EXPR   TOTAL COMPUT CON/APP TOTAL
RACIAL/ETHNIC BACKGROUND                20.9   25.3   46.2   17.1   25.9   43.0   21.6   24.5   46.1
  = WHITE, NOT OF HISPANIC ORIGIN    54753.955956.855255.157256.955951.056353.354055.253153.353448.3
                                      63 8.6 63 8.6 63 8.6 60 8.8 60 8.5 61 8.7 57 8.0 55 8.0 57 8.0
                                          76     76     76     76     76     76     76     76     76

RACIAL/ETHNIC BACKGROUND                14.5   20.5   35.0   16.0   20.0   36.0   16.0   12.0   28.0
  = BLACK, NOT OF HISPANIC ORIGIN    49328.553020.551025.5552 0.0505 0.0523 0.0510 0.0447 0.0478 0.0
                                      34 6.5 48 7.7 42 7.1 50 7.8 32 5.9 40 6.7 42 7.4 15 4.9 28 6.3
                                           2      2      2      1      1      1      1      1      1

RACIAL/ETHNIC BACKGROUND                18.1   20.9   39.0   15.3   22.1   37.4   18.3   19.9   38.3
  = AMERICAN INDIAN OR ALASKAN NATIVE52460.652857.252358.754638.152252.053041.851851.450245.950844.1
                                      51 7.9 47 7.6 48 7.7 47 7.5 41 6.8 44 7.1 46 7.6 39 6.9 43 7.4
                                          35     35     35     35     35     35     35     35     35

RACIAL/ETHNIC BACKGROUND                23.0   35.0   58.0   20.0   28.0   48.0   33.0   35.0   68.0
  = ASIAN OR PACIFIC ISLANDER        557 0.0627 0.0594 0.0606 0.0576 0.0589 0.0613 0.0592 0.0601 0.0
                                      68 9.0 8812.8 8110.5 7511.1 68 9.5 7310.2 8711.7 8310.2 8610.7
                                           1      1      1      1      1      1      1      1      1

RACIAL/ETHNIC BACKGROUND                17.4   20.5   37.9   13.9   22.4   36.3   21.1   20.1   41.2
  = HISPANIC                         51066.952462.851465.653469.652360.052460.053857.649764.451457.2
                                      43 7.1 45 7.4 44 7.2 41 6.6 41 6.8 41 6.7 56 8.0 37 6.7 46 7.6
                                          28     28     28     28     28     28     29     29     29

RACIAL/ETHNIC BACKGROUND                12.5   16.0   28.5   10.5   16.0   26.5   12.0   11.5   23.5
  = UNKNOWN                          47527.4502 9.448418.849324.046322.347114.047034.643932.244837.8
                                      25 5.8 34 6.3 29 6.1 23 4.6 16 4.0 18 4.4 24 6.2 12 4.6 16 5.3
                                           4      4      4      4      4      4      4      4      4



                                                                    MEAN RAW SCORE
                                                 MEAN SCALE SCORE   STD DEV OF SS
                                                 PR OF MEAN SS      GE OF MEAN SS
                                                                    N-COUNT
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                                                                                      14-04-27
           DATE      4/81                                                              ARIZONA
           COUNTY:   YUMA                                                        PUPIL ACHIEVEMENT
           DISTRICT: PARKER SCHL DISTRICT            ANALYSIS OF VARIABLES REPORT     TESTING
           SCHOOL:
           CLASS:
           GRADE     8.8                                                          DISTRICT REPORT
           LEVEL     18 FORM    C

                                             READINGREADINGREADINGGRAMMARGRAMMARGRAMMAR MATH   MATH   MATH
                                              VOCAB  COMPR  TOTAL  MECH   EXPR   TOTAL COMPUT CON/APP TOTAL
                                                                          25.9   44.2   25.3   25.5   50.9
                                               17.0   26.2   43.3   18.3  
RACIAL/ETHNIC BACKGROUND                      56372.558875.857674.860575.657358.958564.457863.155753.056554.1
  = WHITE, NOT OF HISPANIC ORIGIN             56 9.0 6210.2 60 9.9 6511.0 54 9.4 5910.1 56 9.0 51 8.9 54 9.0
                                                 69     70     69     69     69     69     69     69     69

                                                9.5   18.5   28.0   11.5   18.5   30.0   14.0   15.0   29.0
RACIAL/ETHNIC BACKGROUND                      49418.551619.5504 5.050452.550132.049643.547921.048516.547819.5
  = BLACK, NOT OF HISPANIC ORIGIN             24 6.5 29 6.9 26 6.8 21 5.0 21 5.6 20 5.4 16 6.4 18 6.3 15 6.3
                                                  2      2      2      2      2      2      2      2      2

                                               11.9   21.2   33.1   15.8   21.8   37.7   20.2   20.2   40.4
RACIAL/ETHNIC BACKGROUND                      51139.953863.152358.956172.253364.154167.553163.952045.552250.6
  = AMERICAN INDIAN OR ALASKAN NATIVE         32 7.2 38 8.0 34 7.7 45 8.3 34 7.4 38 7.8 35 7.9 33 7.7 33 7.8
                                                 46     46     46     46     46     46     45     45     45

RACIAL/ETHNIC BACKGROUND
  = ASIAN OR PACIFIC ISLANDER
                                                  0      0      0      0      0      0      0      0      0

                                               11.4   21.5   32.9   15.3   23.1   38.4   24.2   23.7   48.2
RACIAL/ETHNIC BACKGROUND                      50178.454259.852264.255668.354667.154668.356667.854356.055356.7
  = HISPANIC                                  27 6.8 40 8.0 34 7.6 42 8.0 41 8.0 40 8.0 51 8.9 44 8.3 48 8.6
                                                 39     39     39     38     38     38     39     38     38

                                               13.5   26.5   40.0   15.0   19.5   34.5   18.0   18.5   36.5
RACIAL/ETHNIC BACKGROUND                      52364.058440.555747.5543 0.051040.552123.051818.050839.551114.0
  = UNKNOWN                                   37 7.9 6010.0 50 8.8 36 7.3 25 6.3 29 6.6 30 7.6 27 7.2 28 7.5
                                                  2      2      2      2      2      2      2      2      2


                                                                                     MEAN RAW SCORE
                                                                MEAN SCALE SCORE     STD DEV OF SS
                                                                PR OF MEAN SS        GE OF MEAN SS
                                                                                     N-COUNT
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                   4/81                                                                                  14-05-60-001
                   YUMA
        DISTRICT   PARKER HIGH SCHOOL DIST
        SCHOOL     PARKER HIGH SCHOOL                        ANALYSIS OF VARIABLES REPORT
        CLASS
                   9.8
                  18            C                                                                        SCHOOL REPORT

                                               READINGREADINGREADINGGRAMMARGRAMMARGRAMMAR MATH   MATH    MATH
                                                VOCAB  COMPR  TOTAL  MECH   EXPR   TOTAL COMPUT CON/APP TOTAL
RACIAL/ETHNIC BACKGROUND                          18.6   27.2   45.8   17.2   26.3   43.5   24.2   27.2   51.3
  = WHITE, NOT OF HISPANIC ORIGIN              57662.959471.758468.758265.857663.457764.956665.056866.456460.2
                                                5210.8 5810.5 5410.0 50 9.7 48 9.5 48 9.3 41 8.9 46 9.2 42 9.8
                                                    80     80     80     79     80     79     80     80     80

RACIAL/ETHNIC BACKGROUND                          14.0   21.0   35.0   12.5   17.0   29.5   23.0   24.5   47.5
  = BLACK, NOT OF HISPANIC ORIGIN              53156.053667.052966.0519 10047583.048199.555730.055034.555237.5
                                                32 8.0 31 7.9 30 7.9 22 5.8 11 4.4 12 4.7 37 8.5 38 8.6 37 8.6
                                                     2      2      2      2      2      2      2      2      2

RACIAL/ETHNIC BACKGROUND                          14.9   25.9   40.9   17.4   24.5   42.2   23.6   23.5   47.1
  = AMERICAN INDIAN OR ALASKAN NATIVE          54458.158567.556561.658662.756160.157160.356151.254269.154956.4
                                                37 8.5 5410.0 45 9.0 5210.0 41 8.6 45 9.1 39 8.7 34 8.3 35 8.5
                                                    27     28     27     26     28     26     27     27     27

RACIAL/ETHNIC BACKGROUND
  = ASIAN OR PACIFIC ISLANDER

                                                     0      0      0      0      0      0      0      0      0

RACIAL/ETHNIC BACKGROUND                          12.8   21.5   34.3   13.9   21.2   35.1   24.2   22.5   46.7
  = HISPANIC                                   52153.554278.152764.753688.752554.052566.156643.653647.454843.2
                                                28 7.8 34 8.0 21 7.8 29 6.7 26 6.9 26 6.3 41 8.9 32 8.0 35 8.4
                                                    37     37     37     38     38     38     38     38     38

RACIAL/ETHNIC BACKGROUND
  = UNKNOWN

                                                     0      0      0      0      0      0      0      0      0




                                                                                  MEAN RAW SCORE
                                                         MEAN SCALE SCORE         STD DEV OF SS
                                                         PR OF MEAN SS            GE OF MEAN SS
                                                                                  N-COUNT
```

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DATE       4/81                                                                       14-05-60-001
COUNTY    YUMA
DISTRICT  PARKER HIGH SCHOOL DIST
SCHOOL    PARKER HIGH SCHOOL                            ANALYSIS OF VARIABLES REPORT
CLASS
GRADE     10.8
          19        C                                                                 SCHOOL REPORT

                                     READINGREADINGREADINGGRAMMARGRAMMARGRAMMAR MATH   MATH   MATH
                                      VOCAB  COMPR  TOTAL  MECH    EXPR   TOTAL COMPUT CON/APP TOTAL
RACIAL/ETHNIC BACKGROUND               17.4   26.0   43.4   15.6   23.9   39.5   20.8   23.5   44.3
  = WHITE, NOT OF HISPANIC ORIGIN    60778.261963.061666.160059.159661.959958.157967.458564.558262.5
                                      5311.0 5811.8 5711.5 5010.8 4810.6 4910.7 41 9.0 4310.0 41 9.9
                                         88     88     88     88     88     88     88     88     88

RACIAL/ETHNIC BACKGROUND               13.5   24.0   37.5   10.5   23.0   33.5   13.0   16.0   29.0
  = BLACK, NOT OF HISPANIC ORIGIN    55855.560181.058067.553129.558767.056052.0521 9.553116.0527 4.5
                                      33 9.0 5010.8 4110.0 22 6.5 4410.1 33 8.5 19 7.7 22 8.0 21 8.0
                                          2      2      2      2      2      2      2      2      2

RACIAL/ETHNIC BACKGROUND               12.8   22.4   35.3   13.4   20.9   34.4   15.5   16.7   32.2
  = AMERICAN INDIAN OR ALASKAN NATIVE 54581.258662.657067.357072.056371.956468.354035.853054.453441.8
                                      28 8.6 4410.1 37 9.4 37 8.7 35 8.7 34 8.7 25 8.0 22 8.0 23 8.0
                                         16     16     16     16     16     16     16     16     16

RACIAL/ETHNIC BACKGROUND
  = ASIAN OR PACIFIC ISLANDER

                                          0      0      0      0      0      0      0      0      0

RACIAL/ETHNIC BACKGROUND               12.9   19.7   32.6   13.0   20.4   33.4   18.9   19.8   38.7
  = HISPANIC                         55357.256074.455665.056877.855653.955958.956663.355578.056071.5
                                      31 8.9 33 8.7 31 8.8 36 8.6 32 8.4 32 8.5 35 8.9 31 8.8 32 8.9
                                         29     29     29     30     30     30     30     30     30

RACIAL/ETHNIC BACKGROUND                9.0   17.0   26.0   15.0   18.0   33.0   23.0   16.0   39.0
  = UNKNOWN                          502 0.0538 0.0525 0.0587 0.0531 0.0554 0.0599 0.0532 0.0566 0.0
                                      15 6.9 25 8.0 21 7.7 4410.0 23 7.3 30 8.3 4910.5 23 8.0 35 9.0
                                          1      1      1      1      1      1      1      1      1




                                                               MEAN RAW SCORE
                                       MEAN SCALE SCORE        STD DEV OF SS
                                       PR OF MEAN SS           GE OF MEAN SS
                                                               N-COUNT
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                        4/81
        COUNTY          YUMA
        DISTRICT        PARKER HIGH SCHOOL DIST
        SCHOOL          PARKER HIGH SCHOOL                       ANALYSIS OF VARIABLES REPORT

                        11.8
                        19          C                                                                        SCHOOL REPORT

                                         READINGREADINGREADINGGRAMMARGRAMMARGRAMMAR MATH    MATH    MATH
                                          VOCAB  COMPR  TOTAL   MECH   EXPR   TOTAL COMPUT CON/APP TOTAL
RACIAL/ETHNIC BACKGROUND                   19.7   28.0   47.6   16.2   25.6   41.8   22.5   26.2   48.7
  = WHITE, NOT OF HISPANIC ORIGIN        63576.864175.063971.561267.561866.761764.559680.661083.560381.2
                                          5512.4 5912.9 5812.9 4811.5 4911.7 4911.6 4310.5 4711.1 4510.9
                                             93     93     93     93     93     93     93     93     93

RACIAL/ETHNIC BACKGROUND                   11.0   21.0   32.0   15.0   16.0   31.0   18.0   19.0   37.0
  = BLACK, NOT OF HISPANIC ORIGIN        533 0.0572 0.0558 0.0587 0.0509 0.0543 0.0562 0.0555 0.0559 0.0
                                          18 8.1 31 9.4 24 8.9 3710.0 12 6.2 20 7.9 30 8.7 26 8.8 27 8.9
                                              1      1      1      1      1      1      1      1      1

RACIAL/ETHNIC BACKGROUND                   16.3   25.9   42.2   17.3   24.2   41.5   18.8   21.7   40.5
  = AMERICAN INDIAN OR ALASKAN NATIVE 59676.261964.160958.662755.759957.161251.156266.657466.056962.6
                                          3910.6 5011.8 4511.1 5512.9 4110.7 4711.3 30 8.7 33 9.6 31 9.1
                                             26     26     26     26     26     26     26     26     26

RACIAL/ETHNIC BACKGROUND
  = ASIAN OR PACIFIC ISLANDER

                                              0      0      0      0      0      0      0      0      0

RACIAL/ETHNIC BACKGROUND                   14.2   22.8   37.0   15.1   21.8   36.8   17.4   18.8   36.3
  = HISPANIC                             36752.958468.257760.159149.257174.357964.255864.655053.055548.4
                                          28 9.3 3610.0 3110.0 3910.3 29 9.3 33 9.6 28 8.5 24 8.6 26 8.7
                                             16     16     16     16     16     16     16     16     16

RACIAL/ETHNIC BACKGROUND
  = UNKNOWN

                                              0      0      0      0      0      0      0      0      0


                                                                           MEAN RAW SCORE
                                                  MEAN SCALE SCORE         STD DEV OF SS
                                                  PR OF MEAN SS            GE OF MEAN SS
                                                                           N-COUNT
```

```
COUNTY    YUMA
DISTRICT  PARKER HIGH SCHOOL DIST                                ANALYSIS OF VARIABLES REPORT
SCHOOL    PARKER HIGH SCHOOL
CLASS
GRADE     12.8                                                                                      SCHOOL REPORT
          19        C

                                     READINGREADINGREADINGGRAMMARGRAMMARGRAMMAR MATH   MATH   MATH
                                      VOCAB  COMPR  TOTAL  MECH   EXPR   TOTAL COMPUT CON/APP TOTAL
ACIAL/ETHNIC BACKGROUND                22.3   29.8   52.0   17.7   27.3   45.0   24.7   29.4   54.1
 = WHITE, NOT OF HISPANIC ORIGIN     66978.566277.466876.763361.163648.063849.061065.463565.762464.6
                                      6212.9 6412.9 6412.9 5312.9 5212.9 5312.9 4711.0 5412.9 5112.9
                                          69     69     69     68     68     68     68     68     68

ACIAL/ETHNIC BACKGROUND
 = BLACK, NOT OF HISPANIC ORIGIN

                                           0      0      0      0      0      0      0      0      0

ACIAL/ETHNIC BACKGROUND                17.6   24.9   42.5   16.3   23.2   39.5   20.1   21.2   41.3
 = AMERICAN INDIAN OR ALASKAN NATIVE 60987.360579.560580.361483.258862.359872.557462.856869.857066.7
                                      3811.1 4111.0 3811.0 4511.7 3310.2 3610.6 34 9.0 29 9.2 30 9.1
                                          20     20     20     21     21     21     21     21     21

ACIAL/ETHNIC BACKGROUND
 = ASIAN OR PACIFIC ISLANDER

                                           0      0      0      0      0      0      0      0      0

ACIAL/ETHNIC BACKGROUND                16.8   24.4   41.2   14.0   22.4   36.4   16.1   18.2   34.4
 = HISPANIC                          59844.360137.860135.557753.357844.557740.954346.354643.954444.5
                                      3410.7 3910.8 3710.8 30 9.2 29 9.6 28 9.5 23 8.0 22 8.4 22 8.3
                                          21     21     21     21     21     21     21     21     21

ACIAL/ETHNIC BACKGROUND                10.0   23.0   33.0    5.0   19.0   24.0   34.0   17.0   51.0
 = UNKNOWN                           518 0.0588 0.0563 0.0456 0.0542 0.0501 0.0673 0.0540 0.0609 0.0
                                      13 7.6 3410.2 24 9.0  4 3.5 18 7.9  9 5.6 7012.9 20 8.2 4511.1
                                           1      1      1      1      1      1      1      1      1




                                                           MEAN SCALE SCORE      MEAN RAW SCORE
                                                           PR OF MEAN SS         STD DEV OF SS
                                                                                 GE OF MEAN SS
                                                                                 N-COUNT
```

-ATTACHMENT-2

NATIONAL
CONGRESS
OF
AMERICAN
INDIANS

202 E STREET, N.E., WASHINGTON, D.C. 20002 (202) 546-1168

EXECUTIVE DIRECTOR
Ronald P. Andrade
Luiseno-Diegueno

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Quinault

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MUSKOGEE AREA
Perry Wheeler
Cherokee

NORTHEASTERN AREA
Elmer John
Seneca

PHOENIX AREA
Anthony Drennan
Colorado River Indian Tribes

PORTLAND AREA
Russell Jim
Yakima

SACRAMENTO AREA
Juanita Dixon
Luiseno

SOUTHEASTERN AREA
Eddie Tullis
Poarch Band of Creeks

WHY TRIBES ARE OPPOSED TO THE TITLE IV TRANSFER

Title IV, the Indian Education Act, was passed by the 92nd Congress in response to the growing national awareness that Indian students were not receiving quality education experiences in public school contexts. The Act was designed to offer several remedies to this problem. Part A, of the Act provides payments directly to LEA's to support programs which address the unique educational and cultural needs of Indian students. Part B supports specialized projects aimed at the particular needs of Indian students at specific sites; unlike Part A, Part B projects may be administered either by LEA's or by Tribal governments. Part C offers support for the education of Indian adults. Part D provides funds for the operation of the Office of Indian Education in the US Department of Education and for the National Advisory Council on Indian Education (NACIE) which monitors the support given to Indian Education throughout that Department.

Currently, some 408,000 Indian students are eligible to be served by Title IV programs. The Office of Indian Education estimates that 3/4ths of these students are of federally recognized Tribal backgrounds. This includes students who are enrolled in a Tribe as well as students who trace affiliation to a Tribe through their parents' or their grandparents' enrollment. The remaining 1/4th of the service population is composed of students from State-recognized and non-recognized Tribes as well as students whose Indian background is not acknowledged by any Tribal entity. Self-identification has traditionally been used to determine a student's "eligibility" for Title IV services; now, OIE is attempting to tighten up the documentation process and make certain that the open-ended "definition of Indian" cannot be abused by students, parents, or school personnel.

Title IV differs from BIA's educational services in several ways. Title IV funds programs for students who come from any number of Indian backgrounds. BIA funds education programs only for members of the federally recognized Tribes. Title IV services are aimed primarily at public schools; schools serving Indian students in urban areas receive particular benefit here. BIA support, in contrast, is directed toward schools located on or near Indian reservations. This includes both schools operated directly by the BIA, schools operated under 93-638 contracts to Tribal governments; and, in the instance of the Johnson-O'Malley program, educational programs for Indian students based within public schools and subject to the scrutiny of Tribal governments through the oversight of Indian Parent Committees or Indian School Boards.

Some public schools receive both Title IV - A funds and Johnson-O'Malley support. But note that they receive these funds for entirely different reasons: Title IV, part A, based on need; JOM based on treaty obligation; that the funds will not necessarily serve the same population -- BIA services being restricted solely to students from federally recognized Tribes; and that they are administered in terms of quite different principles -- Title IV being LEA based, with BIA allowing Tribes the option of controlling program management and design by contracting for operating funds. These and other of the contrasts between Title IV and JOM were carefully researched and detailed in a study commissioned by the Senate Appropriations Committee and completed in the Spring of 1981. That study concluded that the services provided under Title IV and JOM do not duplicate or overlap. In this way, the study's findings agree with the point that Tribes have always made -- Title IV and JOM (indeed, Title IV and all of BIA's Indian Education services) are separate entities carrying out separate functions in Indian education.

The proposed transfer of Title IV and the Office of Indian Education out of the Department of Education and into the Department of Interior ignores this distinctiveness. The transfer will confuse and muddle BIA's uniquely focused mandate in Indian education -- services to the federally recognized Tribes, with Title IV's more generalized range of committments to a more broadly defined Indian population. Either BIA will have to shift from a political to a needs criteria when determining the scope of its service population; or Title IV will have to become a support program for the education of students from the recognized Tribes, exclusively. Either way, the benefits currently accruing in Indian education, thanks to the operation of both programs in independent terms, will be seriously threatened. Public school districts will be particularly vulnerable either way, forcing, as eligibility criteria refocus, local tax revenues to assume even greater responsibilities for the costs of educating Indian students.

It is clear that Tribes do not want to see Title IV and BIA education programs be merged. Tribes made this point with an almost unanimous voice in 1978 when the Department of Education was first being formed. Virtually 99% of the nation's federally recognized and state recognized Tribes opposed the transfer of BIA's education office into the Department, fearing that the scope of services and the unique focus of BIA's educational responsibility would be compromised by such a move. The same argument holds in the present case. Tribes have communicated these concerns through their own initiatives and through position statements adopted by the Tribally sanctioned national organizations. Promises made by this Administration to give the objections of the Tribes "fullest consideration" (see, for example, the letter from Secretary of Education Terrel Bell here attached) have apparently been disregarded.

It may be true that the Department of Education needs to be disbanded. That does not necessarily mean that Title IV must be relocated into some other federal domain. Congress created the Office of Indian Education to serve this function in the (then) Office of Education. OIE continues to serve this function in the Department of Education. OIE should be allowed to continue to serve this function in the FEA. Transferring Title IV transfers OIE out of the FEA and that leaves no voice speaking on behalf of the Tribes within that Foundation. But the educational needs of the Tribes will still exist. These needs cannot be ignored by the Foundation for Education Assistance. FEA block grants to SEA's connot solve these problems. SEA's, according to the findings of the Education Commission of the States' recent report Indian Education: Problems in Need of Resolution, are just not equipped to handle the unique needs and responsibilities implicit in Indian education. Tribes do not want to see federal responsibilities in Indian education -- especially those responsibilities guaranteed through the treaties and trust agreements -- be replaced by less solidly-based state-level pass-through commitments. There must be an Indian presence in the FEA.

The Administration has made no attempt to respond to any of these issues. There is a proposal to transfer but, as of this date, there is no plan for the implementation of the transfer or for the operation of the affected programs after that time. The Administration refuses to acknowledge that problems and conflicts of interests will emerge out of the plan, regardless of the care with which it is designed. 25 CRF requires that such a plan be reviewed by the Federally recognized Tribes and that the Tribes' concerns be heeded before the decision is carried out. The basis of the whole government-to government relationship binding the federal sector to services to the Federally Recognized Tribes is being overlooked here. Services to the state and non-recognized Tribes and of individual Indian students will also be affected by these proposals; federal commitments and responsibilities to those entities are being treated with equal insensitivity.

There is no compelling reason to transfer Title IV out of the Department of Education. The confusion and disruption of services and shift in mandates which the transfer will create will hardly make the move worthwhile. Tribes do not want to see transfer. And if it is imposed upon them, this will be yet another instance of "big brother" making decisions "on behalf of" the "little guys". The Administration's policy of "new federalism" is not supposed to be designed to do that.

MULTI-AGENCY DOCUMENT -- DRAFT DRAFT DRAFT DRAFT DRAFT DRAFT DRAFT

RETAIN TITLE IV IN ED

The Indian Education Act (Title IV of PL 92-318) was passed because Indian students were not receiving quality education in public schools. To remedy their problems, the Act funds LEA programs that address Indian students' unique educational and cultural needs (Part A), supports LEA and Tribal projects for meeting the students' special needs (Part B), supports Indian adult education (Part C), and funds the Office of Indian Education and the National Advisory Council on Indian Education (Part D).

Of the 408,000 Indian students eligible for Title IV programs, three-fourths have federally recognized Tribal backgrounds and one-fourth have state recognized and nonrecognized or no acknowledged Tribal background.

Title IV and BIA educational services differ. Title IV aids students from a variety of Indian backgrounds and primarily serves public schools--especially benefitting urban Indian students. BIA aids members of federally recognized Tribes and serves schools located on or near reservations--including BIA schools, Tribal schools (under PL 93-638 contracts), and Johnson-O'Malley (JOM) programs for Indian students in public schools.

Some public schools receive both Title IV and JOM funds but for different and distinct reasons. Their Title IV, Part A, funds are based on need and are administered through SEAs. Their JOM assistance is based upon treaty obligation and is Tribally managed or contracted out. There is no overlap according to Tribal conclusions and to the Spring 1981 study commissioned by the Appropriations Committee of the U. S. Senate.

Ignoring the separate functions of Title IV and of the BIA, the proposed transfer from the Department of Education (ED) to the Department of the Interior will confuse BIA's focused mandate to serve federally recognized Tribes with Title IV's general commitment to a broader Indian population. Whether BIA shifts from a political to a needs criterion to determine the scope of its service population or Title IV becomes a support program only for federal recognized Tribal students, benefits currently accruing in Indian education will be seriously threatened. Public schools will be vulnerable either way, for either change will require that Indian education depend even more on local tax revenues.

The Tribes oppose a merger of Title IV and BIA educational services and have communicated their concern themselves and through Tribally sanctioned national organizations. For the same reasons in 1978, 99 percent of the state and federally recognized Tribes opposed the transfer to ED of BIA's educational office fearing that the move would compromise BIA's scope of service and unique focus. The Administration's promises to give "fullest consideration" to Tribal objections have been disregarded.

The fate of ED should not affect the location of Title IV. The Office of Indian Education serves the same function in ED as it did when Congress created it within ED's predecessor, the Office of Education. Its function should continue within the proposed Foundation for Education Assistance (FEA). There must be an Indian presence in the FEA because FEA block grants to states cannot solve Indian educational problems, because the SEAs are not equipped to meet the unique needs of Indian education, and because federal responsibilities guaranteed by treaties and trust agreements cannot be replaced by less solidly based state level pass-through commitments.

The Administration has not responded to the issues, developed a plan for either the implementation of the transfer or for the operation of affected programs, or acknowledged that problems and conflicts of interest will emerge from any transfer plan. Any plan must be reviewed by the federally recognized Tribes, whose concerns must be heeded, before a decision is carried out. The federal government is overlooking its relationship with the federally recognized Tribes. It is also being insensitive to its commitment to state recognized and nonrecognized Tribes and to individual Indian students.

There is no compelling reason to transfer Title IV from ED. If such a transfer should be imposed upon the Tribes, they will view it as another instance of "big brother" making decisions for the "little guys"--which the Administration's policy of "new federalism" is not designed to do.

[THE FOLLOWING POSITION PAPER AND POSITION STATEMENT WERE EXCERPTED FROM A BROCHURE SUBMITTED BY THE CONFEDERATED TRIBES OF WARM SPRINGS, OREGON]

POSITION PAPER

THE UNITED STATES' TRUST RESPONSIBILITY FOR INDIAN EDUCATION

THE CONFEDERATED TRIBES OF THE
WARM SPRINGS RESERVATION OF OREGON

APRIL 1982

THE UNITED STATES' TRUST RESPONSIBILITY FOR INDIAN EDUCATION

I. INTRODUCTION

Support for Indian education has always been a cornerstone of the United States' relations with Indian tribes. But in recent months, the Reagan administration has sought to justify its budgetary objective of reducing federal spending with a policy declaration of far-reaching significance to Indian people throughout the nation. In its simplest terms, this new Reagan policy proposes that education services are not one of the trust responsibilities the United States owes to Indian tribes. In the administration's view, "trust responsibilities" extend only to the protection of natural resources--such as water, minerals, timber, and land-owned by tribes, not to the protection of human resources--which include "social" services such as law enforcement, economic development, education, and tribal government.

To shore up this dramatic policy shift, the administration argues that not calling education a trust responsibility in no way diminishes the federal government's legal obligation to support education services for Indians. Instead, the administration insists, its novel analysis only clarifies the terminology which describes federal services; it will not affect the education services which the federal government now supports.

For many Indian tribes, however, this new federal policy signals much more than just a redefinition of terms. To them, it represents an abrupt reversal of federal Indian policy. This new federal declaration strikes many Indians as analogous to a President declaring that the Constitution no longer protects free speech, but that he is confident other legal safeguards will allow it to continue.

Coming at a time of massive federal withdrawals of financial assistance and realignments of federal agency responsibilities under a "New Federalism" banner, many tribes veiw as a hollow excuse for federal abandonment of the education needs of Indians in the United States. "How can you justify cutting off federal support for Indian education," Indian people are asking. "Because," the administration in effect responds, "for generations, you have misunderstood the reasons the federal government has provided these services. It was not because we wanted to. Besides, trust responsibilities are only of recent origin; their loss counts for little."

Such rhetoric ignores the history of federal Indian education programs and undermines one of the fundamental principles involved in relations between Indian tribes and the United States. But the policy is not only unfounded, it is devisive and disruptive. It pits Indian communities against each other to fight over reduced federal funds, and it focuses tribal attention on battling a philosophical war with the United States instead of concentrating on the needs of their people and communities.

This position paper sets forth the answer of the Confederated Tribes of the Warm Springs Reservation of Oregon to the question, "Does the United States have a trust responsibility to assure adequate education services for Indian people?" We strongly answer "Yes." Our reasons and recommendations for federal action are explained in the following sections.

II. POLICY STATEMENT

The Confederated Tribes of the Warm Springs Reservation of Oregon declares:

A. The Tribes, by treaty with the United States in 1855, ceded vast areas of territory, retaining only the Warm Springs Reservation as our permanent home, and relinquished our autonomy as a foreign sovereign. In exchange, the United States promised to protect and preserve the Tribes: our lands and our people.

B. Among other important considerations, the United States agreed to furnish education services to enable us to determine our futures, to manage our resources, and to govern our lives. The United States also agreed to keep our Tribes and Reservation independent of state encroachment--free from state taxation, regulation, and jurisidiction.

C. Since our treaty was signed, the United States has provided education services for tribal members in fulfillment of its treaty and other legal responsibilities.

D. These federal education services have changed over the years and have taken a variety of forms--elementary, secondary, postsecondary, and adult; off-reservation and reservation boarding and day schools, public schools, and tribal schools. But throughout our reservation's history, the federal government has continued its support of our education services, whether by direct administration or by funding state, local, or tribal education systems.

E. Through this course of involvement, the federal government clearly has established its education responsibility and has helped shape the education for generations of tribal members.

F. The long-range goal of the Confederated Tribes seeks neither dependence through federal domination nor independence from federal involvement. Instead, we seek the economic, political, and social tools with which we can preserve our tribal identities and independence. And to reach this goal, we will need continued federal assistance and support, not as "wards" of the United States but as beneficiaries of the United States' unique trust responsibility to our Tribes.

G. For these reasons, the Confederated Tribes of the Warm Springs Reservation believes that the United States must maintain its legal and moral obligation to provide adequate opportunities for our members' education and training. Only in this way can we, as tribal members, continue to determine the direction of our own lives and to capably manage our corporate and governmental affairs as a responsible and sovereign tribal entity.

III. RATIONALE

A. The Trust Responsibility Is Well-Founded In American History. The federal government's unique relationship of trust with Indian tribes has roots that reach back into the earliest periods of American history. Before nationhood, the colonies depended heavily on tribal benevolence and protection for their very existence, and many of the early European colonial powers--such as Spain, Holland, and England--and even their colonies made treaties with North American Tribes. Throughout its first century, the young United States continued to treat the Indian nations much as foreign sovereigns--their relations were formalized in treaties. By the 1870s, the United States had approved nearly 400 such documents with Indian tribes from the East Coast to the West. Whether they were called treaties of "war," "peace," or "friendship," all carry the nation's constitutional promise that they represent the "supreme law of the land." Even when Indian treaty-making was abandonned in 1871, the executive, legislative, and judicial branches of the federal government continued to accord Indian affairs a special status. Whether in fulfillment of its treaty promises or of its other legal duties, the United States has continuously premised its involvement in Indian matters on a unique relationship between the tribes and the federal government. This trust relationship has formed the nucleus for a host of special protections and services for Indian reservations and tribes.

Two common themes permeate the history of federal-Indian affairs. First, the federal government has recognized its obligation to protect Indian interests from state and commercial exploitation. Second, the federal government has sought to furnish Indian tribes with the tools they need to maintain their own identities. These objectives have generated considerable controversy within the government and among federal and Indian interests, and they have frequently conflicted with each other in the federal government's administration of its Indian policies. Some periods have been marked by efforts to assimilate all Indian people into the American mainstream. Other periods have been marked by efforts to maintain tribal autonomy.

But it is impossible to understand American history without referring to Indian history. The two are unavoidably interwined and interdependent. And despite its fluctuating emphases, federal policies have always recognized that Indian affairs involve unique issues and responsibilities for the federal government.

B. The Trust Responsibility Is Well-Founded In American Jurisprudence.

The federal government's trust responsibility is hardly an untested legal theory advanced by Indian advocates to gain federal support for their endeavors. Instead, it is an accepted doctrine of American law. The evolution of the trust relationship into the 1980s has been directed and shaped by many influences. This process continues today. But this admission no more undermines the doctrine's validity than does the fact that the Constitution itself constantly undergoes similar transformations. While the trust responsibility may include other aspects today than it did 150 years ago, it remains a viable element of the American system of government and law.

The earliest American legal controversies, some of which remain the backbone for American federalism, also formed the foundation for the federal government's unique trust responsibility to Indian tribes. Chief Justice Marshall wrestled with the powers of the federal and state governments in the Cherokee cases, in which he labeled the Indian tribes as "domestic, dependent nations" who "are in a state of pupilage [resembling] that of a ward to his guardian." Several important corollaries to this description of the relationship between the United States and the tribes have since been articulated by the Supreme Court and the Congress.

In U. S. v. Kagama (1886), the Court declared:

> Indian tribes are the wards of the nation. They are communities dependent on the United States....From their very weakness and helplessness, so largely due to the course of dealing of the Federal Government with them and the treaties in which it has been promised, there arises the duty of protection, and with it the power. This has always been recognized by the Executive and by Congress, and by this court, whenever the question has arisen.

Just as the "course of dealings" of the United States has created a unique federal responsibility for Indian Affairs, other sources of the United States' authority over Indians have been identified. These include the Constitutional mandate to regulate commerce with the Indian tribes, the guardian-ward relationship, and the unique "ownership" by the federal government as trustee of Indian lands.

In Seminole Nation v. U. S. (1942), the Court found:

> In carrying out its treaty obligations with the Indian tribes, the Government is something more than a mere contracting party. Under a humane and self imposed policy which has found expression in many acts of Congress and numerous decisions of this Court, it has charged itself with moral obligations of the highest responsibility and trust. Its conduct, as disclosed in the acts of those who represent it in dealings with the Indians, should therefore be judged by the most exacting fiduciary standards.

Similar statements of the federal government's broad responsibility for Indian affairs have been echoed in numerous declarations by the Congress and the President.

Even before the Constitution was adopted, the Congress of the Confederation recognized its responsibility for Indian affairs in the Northwest Ordinance of 1787, which read:

> The utmost good faith shall always be observed towards the Indians; their lands and property shall never be taken from them without their consent; and in their property rights, and liberty they shall never be invaded or disturbed unless in just and lawful wars authorized by the Congress; but laws founded in justice and humanity shall, from time to time, be made, for preventing wrongs being done to them, and for preserving peace and friendship with them.

In 1934, the Indian Reorganization Act (also known as the Wheeler-Howard Act) effected major shifts in federal

Indian policy by prohibiting the further allotment of Indian lands and by strengthening the authority of tribal governments in relation to federal administrators. In 1975, the Congress enacted the Indian Self-Determination and Education Assistance Act, one of the most far-reaching reforms of federal Indian policy. In the Act's preamble, Congress declares:

> (1) [T]he prolonged Federal domination of Indian service programs has served to retard rather than enhance the progress of Indian people and their communities by depriving Indians of the full opportunity to develop leadership skills crucial to the realization of self-government, and has denied to the Indian people an effective voice in the planning and implementation of programs for the benefit of Indians which are responsive to the true needs of Indian communities. . . .

Based on these findings, Congress expressed:

> [I]ts commitment to the maintenance of the Federal Government's unique and continuing relationship with and responsibility to the Indian people through the establishment of a meaningful Indian self-determination policy which will permit an orderly transition from Federal domination of programs for and services to Indians to effective and meaningful participation by the Indian people in the planning and administration of those programs and services.

President Washington explained the effects of the Trade and Intercourse Act in 1790 to the Seneca Nation in the following words:

> The General Government will never consent to your being defrauded, but it will protect you in all your just rights. . . . You will perceive, by the law of Congress for regulating trade and intercourse with the Indian tribes, the fatherly care and the United States intend to take of the Indians.

One hundred-eighty years later, President Nixon similary pledged the United States' efforts to respect Indian interests. In his message to Congress on Indian Affairs, he said:

> The United States Government acts as a legal trustee for the land and water rights of American Indians. . . (and has) a legal obligation to advance the interests of the beneficiaries of the trust without reservation and with the highest degree of diligence and skill.

None of these statements from the Congress, President, or the Supreme Court has ever implied that the United States' trust responsibility--whether called a "duty of protection," a "moral obligation of the highest responsibility," the "utmost good faith," "the maintenance of the unique and continuing relationship," "fatherly care," or a "legal obligation to advance the interests of the beneficiaries"--encompasses only physical resources of a tribe.

C. The Trust Responsibility Is Necessary For Protectting Tribal Resources and Preserving Tribal Self-Government.

The federal government's trust responsibility is the vehicle for the nation's fulfilling its unique commitment to Indian tribes to safeguard their lands and their peoples. This obligation is neither a gratuitous one which a generous government has provided Indian tribes nor a temporary one which can be withdrawn arbitrarily at the government's pleasure. Instead, the trust responsibility is a bargained-for condition which Indian tribes required before they ceded vast areas of their lands to the federal government for settlement. It is also a promise which the federal government has expressed to Indian tribes through a myriad of special legislative and executive actions.

Although some court decisions have characterized the authority of the United States over Indian affairs as "plenary"--meaning that the Government has full, unrestricted control over Indian matters--more recent opinions have concluded that Congress' authority is not absolute. Under these cases, the courts have ruled that Congress must observe basic constitutional safeguards in its dealings with Indian tribes. As a result, even termination--the ultimate federal derogation of its trust responsibility-must be carried out faithfully and in accordance with the United States' fiduciary duties.

The principal justifications underlying the federal government's trust responsibility are: 1) to protect and preserve tribal lands; 2) to promote tribal government autonomy; and 3) to provide support for the general welfare of Indian people. Clearly, none of these purposes necessarily includes a limited obgligation which can be met and discharged. All constitute on-going responsibilities which are vital to the existence of Indian tribes in the United States.

Despite the recognition of the continuing nature of the trust responsibility by Indian tribal governments and by many federal officials, federal Indian policy has occasionally sought to limit or deny a perpetual trust relationship. This has been attempted typically under the guise of carrying out the guardian-ward analysis articulated by Chief Justice Marshall in the Cherokee cases. In misreading this doctrine, some federal efforts have maintained that once the ward is no longer "dependent" and can provide for its own needs, the necessity for federal protection ends.

But the federal government's exercise of its trust responsibility is not merely the means to reach a goal of tribal autonomy, it is the exclusive guarantee that such a result can ever be attained. The trust responsibility itself represents the only insurance policy Indian tribes have that their interests will be protected in perpetuity. Not only the tribes themselves but the federal government have paid the premiums for this insurance throughout their dealings with one another. And Indian values and institutions will remain "at risk" as long as the nation itself exists. Altering the relationship would not only change the rules by which the United States agreed to deal with Indian tribes, it would forfeit any hope of Indian people to continue their unique cultural, political, social, and economic societies.

Many Indian treaties assured tribes of the federal government's support "as long as water flows or grass grows upon the earth." Although some people have questioned the wisdom of such promises, Indian tribes clearly understand that the federal government's commitment to them is both necessary and unending.

D. The Trust Responsibility Is Owed to Tribal Governments and Their Members.

One of the basic tenets underlying the trust responsibility is that the relationship exists between two separate governments--the United States and the individual tribes. But this government-to-government relationship is unlike any other in the American system. Tribal governments are neither federal instrumentalities nor federal territories. Similarly, they are not states or their local subdivisions. As expressed in Worcester v. Georgia in a description of the Cherokee Nation:

> The Indian nations had always been considered as distinct, independent political communities, retaining their original natural rights, as the undisputed possessors of soil, from time immemorial. . . .

Because of this unique status, it is not possible to draw exact analogies between other federal services and federal Indian services. Thus, it cannot be said that federal support of tribal governments resembles federal support for city governments by revenue sharing. Similarly, the federal government must maintain a higher standard of care in its dealings with Indian issues than it applies even in its own internal affairs. For this reason, it is not sufficient for the federal government to merely recognize tribal governments; instead, it has an affirmative duty to protect their interests and to provide for their well-being.

But the trust responsibility is not limited to relations between the United States and tribal governments.

The responsibility extends through the tribes to their individual tribal members as well. This situation also presents anomalies that make comparisons to other situations difficult. Indian people are not only citizens of their tribal governments with the unique privileges that attach thereto, they are also citizens of the state in which they reside. As such, they are entitled to share equally with other state citizens in all state services and opportunities. States cannot deny assistance to Indians simply because of their residence on a reservation or because they may also qualify for other tribal or federal assistance.

But the unique status of tribal governments and individual Indians stems from the political relationship between the United States and Indian tribes. For this reason, special Indian programs are not racially-based classifications subject to constitutional challenge. In a legal context, therefore, Indians are not a racial minority when they receive special federal services; instead they are the beneficiaries of a special political relationship between their tribes and the United States.

E. The Trust Responsibility Extends Beyond the Bureau of Indian Affairs To All Agencies of the United States.

Although much of the responsibility for providing trust services to Indians has been delegated to the Bureau of Indian Affairs, the BIA is not solely responsible for assuring that the United States' trust responsibilities are carried out faithfully. All federal agencies can be held to the same high degree of care in their conduct of Indian affairs that are imposed on the BIA. And because the trust responsibility rests on the government-to-government relationship between tribes and the United States, its obligations fall on the entire government, not on just one agency.

For this reason, analysis of what services are trust responsibililities, and what services are not, is complicated. It should no more be assumed that all BIA services are necessarily in fulfillment of the trust responsibility--although most probably are--than that all other agencies' services are outside it. In the final analysis, the simplest test of whether a federal activity falls within or outside the trust responsibility arena is this: Is the activity one that involves Indian lands or resources, tribal governments, or individual Indians as tribal citizens? If so, it is probably a federal trust responsibility. Is the activity one that involves Indian tribes or individual Indians as U. S. or state citizens without regard to their tribal membership? If so, it is probably not a federal trust responsibility.

F. The Executive Branch Is Responsible For Carrying Out The United States' Trust Responsbility, Not For Creating or Dissolving It.

Although it is an elementary statement of the role of the executive branch under our constitutional system, the above proposition is often obscured or ignored in the federal government's discharge of its Indian trust responsibilities. In part, such confusion may exist because of the terminology commonly used in federal Indian matters. To some person, terms such as "wardship" and "dependency" may suggest that federal authority is unchecked and that federal discretion is unlimited. But the executive branch is no more empowered to exercise absolute power in Indian affairs than it is in any other endeavor.

The executive branch is responsible for carrying out the laws of the United States, and while its preferences may help shape such policies, it cannot set them. In the same vein, it cannot pass final judgement on what the laws of congress mean or whether they represent good public policy.

This system of checks and balances applies throughout the federal government, in Indian affairs and in national defense. In carrying out its trust responsibilities, if the the executive branch violates its duties to protect Indian interests, remedies exist in both the courts and the Congress. It is not the domain of the executive branch to define what the trust responsibility is or to decide when it will or will not adhere to its principles.

G. Reduced Federal Appropriations Do Not Diminish The Trust Responsibility Owed To Tribal Governments.

Federal appropriations to support Indian tribes and individuals are an important measure of the significance attached by the United States to its trust responsibilities. By identifying specific funds and programs, the Congress can--and typically does--shift its emphasis from one area of responsibility to another. In the exercise of its plenary authority, the Congress can even refuse to appropriate any funds at all for certain services.

But even in the extreme situation where no appropriated funds were available for certain trust services, the underlying legal and moral responsibility would remain: and in furnishing other trust services, the federal government would still be required to act as a fiduciary in its protection and preservation of Indian resources and rights. In its Final Report to the Congress in 1977, the American Indian Policy Review Commission observed:

> The precise manner in which these (trust) obligations are fulfilled in terms of magnitude and distribution may be changed as the relative strength and self-sufficiency of Indian tribes change. But the federal duty to provide them remains constant. Furthermore, the nature and degree of services provided by the Federal Government pursuant to the trust obligation is not altered by the Services which Indians may receive on the same basis as other United States citizens or governmental units.

Although Congress may unquestionably make such policy or budgetary changes, it is equally clear that federal agencies have no such latitude. In the performance of their duties, federal administrators are required to provide rational allocations of the resources available to them. They cannot wash their hands of the trust responsibility merely by claiming that insufficient funds are available to enable them to faithfully carry out their delegated responsibilities. Neither can they cover their neglect by arguing that other resources are available which should be sufficient to discharge the trust responsibility. As the level of federal funding changes, the direction of federal support will change accordingly. But federal abandonment of its trust responsibilities cannot be based solely on the fact that fewer resources than desired were appropriated by the Congress.

H. Trust Responsibilities Cannot Be Contracted Away.

Federal actions affecting Indians are not known for their logical consistency or their equal application. Often in the past, federal policies have relied less on informed judgment and more on unfounded speculation. Because of its significance in Indian affairs, the trust responsibility provides a good example of the creativity which federal Indian policies and practices can exhibit.

In the 1975 Indian Self-Determination and Education Assistance Act, the Congress authorized the Secretary of the Interior to contract with tribes to enable them to assume control over federal programs operated on their behalf. Since then, an elaborate set of administrative policies has determined on what basis such contracts can be executed. These policies uniformly provide that the federal government cannot contract away its trust responsibilities, although the nature of these trust areas are only broadly described. The policies also permit tribes to contract for a variety of services, including those involving physical resources.

When tribes so contract under the policies, they do not relieve the federal government of its trust responsibility. In effect, therefore, this practice means that the underlying obligation is not transferred away, and the federal government remains ultimately responsible for the faithful performance of the contracted service. If the tribal contractor performs badly, the federal government can revoke the contract and reassume the delivery of the service itself. And even during the term of the contract, the federal government oversees the contract's services and monitors the contractor's performance.

But in Indian Education, federal administrators have taken a different tack. In 1921, the Bureau of Indian Affairs was authorized to provide services to Indians "throughout the United States." In 1924, Indians were made citizens of the states where they reside. And in 1934, the BIA was authorized to contract with states for the education of Indian children in public schools. Although none of these laws, or any other federal law, requires such an interpretation, the BIA now maintains that these education laws confirm a responsibility in the states, not in the federal government, to educate Indian students.

The BIA sees no parallels between its Self-Determination Act contracts and its Johnson-O'Malley Act or other Indian education contracts. It narrowly construes the intent of the Self-Determination Act, even its provisions on Indian education, to avoid facing an analytical dilemma. The BIA recognizes that it cannot contract away the underlying trust responsibility in Self-Determination Act matters. In education matters, however, the BIA argues that not only can it contract the service, it is relieved of the responsibility when it does so. It even intimates that the trust obligation never existed.

Clearly, the same policies should apply in both situations. The BIA's interpretation of its Self-Determination Act powers and obligations is the more rational and legally compelling of the two practices. But both Self-Determination Act contract and Indian education contracts--whether the contractor is a tribe, a state, or a local school district--arise from the same basic trust responsibility. Because of their common foundations, both should be adminitered consistently.

It is a fundamental rule in administrative law that an agency cannot erase its mandated responsibilities by delegating them to another. Such actions are beyond their authority and are automatically void. The BIA and every other federal agency knows this rule and is bound by it. But it comes as no surprise to Indian tribes that the rules will bend, particularly when their interests are at stake.

I. The BIA's Organizational Structure Does Not Define The Trust Responsibility's Breadth.

The Bureau of Indian Affairs maintains an Office of Trust Responsibilities. The services under this program include, according to a recent BIA description, "the protection and development of the trust resource (land, water, and minerals) and fulfillment of the Federal Government's legal obligations to American Indian Tribes and individuals whose resources are held in trust by the United States for their protection and benefit. Activities also include road construction and maintenance." Other functional areas within the BIA include "Indian Service," "Education," and "Administration."

Although this organizational pattern neatly matches the Bureau's analysis that education, among other "social" services, is not part of the trust responsibility, the BIA's chart of organization does not determine the nature of the trust responsibility. Neither does the fact that the BIA has recently established an Office of Trust Responsibilities make the trust doctrine itself of recent origin. Regardless of the way the BIA might like things to be, it cannot carry out its wishes unilaterally merely by creating new titles and making new administrative assignments. It can, of course, reorganize and streamline its operations. But in doing so, it cannot escape its basic legal obligations to Indian tribes.

J. The Concepts of Trust Responsibilities and Treaty Rights Are Not Synonymous.

The Reagan administration has recently sought to discredit the trust responsibility doctrine by its allegations that the term is of recent, and probably questionable, invention and that it is a misnomer for the more precise term "treaty rights." While earlier sections of this paper have refuted the former assertion, the latter is equally erroneous. Only in the wonderland of the federal bureaucracy could such an illusion survive. And only in a context where words-mean-whatever-they-are-wanted-to-mean could the terms "trust responsibilities" and "treaty rights" be considered synonyms.

Most, if not all, treaty rights are probably tied to specific trust responsibilities owed by the federal government to Indian tribes. But for over a century, no new treaty rights have been established by the federal government for Indian tribes. Most historians of this period who have studied federal-tribal relations concede that treaty-making ended to settle an internal squabble between the Houses of Congress, but that subsequent federal actions carry the same practical and legal significance.

Despite the curtailment of federal-Indian treaties in 1871, countless federal executive, legislative, and judicial acts have confirmed the United States' continuing trust responsibility. And by no stretch of one's imagination could all such legal obligations be tied to treaty rights. The availability of federal trust services--but not of treaty rights--has been extended to tribes and Indian people who had no treaty with the federal government. Numerous Indian reservations have been created by executive orders or by legislation for nontreaty tribes. And no federal policy to date has sought so explicitly to distinguish the trust responsibilities owed to a treaty-created reservation from those owed to a nontreaty-created reservation. All "recognized" tribes and all reservations have qualified on an equal footing for available federal trust services and protection.

Treaty rights and trust responsibilities are often related, but they are also considerably different. And the difference is significant, not only for treaty tribes but for nontreaty tribes as well. For many tribes, their off-reservation rights are insured only through their treaties. For nontreaty tribes, their present authority and autonomy would disappear if federal services were founded solely on treaties. The carving of such a distinction between Indian tribes--particularly when the difference was often created by federal negligence--should not form the basis for any federal policy. Doing so only feebly serves the administration's budgetreduction goals. And far more significantly, it undermines the principles of law and justice on which this nation and its Indian policies have always depended.

K. The Trust Responsibility Includes Education and Other Services. It Is not Limited to Physical Resources.

"Trust responsibility" is a generic term which describes a host of legal and moral obligations owed by the federal government to Indian tribes. The doctrine is premised on the treaty promises, statutory commitments, and judicial interpretations which have been made by the United States throughout its involvement in Indian affairs. And it manifests itself in the services and assistance provided by the United States to Indian tribes as governments, not as commercial enterprises or social organizations.

In 1974, the National Tribal Chairmen's Association expressed its beliefs about the nature of the trust responsibility as follows:

> The Federal Government's trust responsibilities are threefold: First, there is a special relationship derived from the Constitution of the United States which recognizes tribal sovereignty. There is a trust responsibility in the United States to protect this sovereignty of Indian tribes, so there is no further erosion of tribal sovereignty and to support tribes in their efforts to enhance tribal sovereignty.
>
> Second, the trust responsibility of the United States should emphasize the protection of tribal assets and allow the Indian owners to assume the major role in the management of their funds and natural resources. The trustees should spend less time and energy protecting these resources from their Indian owners and more time protecting them from outside interests, including the Federal Government itself.
>
> And third, flowing from the above, there is a trust responsibility for providing the means by which the tribes can provide community services to the members of the reservation communities.

The declaration captures well the trust responsibility's dimensions and represents the position of most tribal governments and Indian people.

The trust responsibility is a complex and evolving principle which, despite its long history, has never been absolutely defined. In its two year analysis of federal Indian policies, the American Indian Policy Review

Commission constantly confronted issues which questioned elements of the trust responsibility. In its final report, however, the Commission recommended against Congress' formulation of a statutory definition of the doctrine's breadth. The Commission concluded:

> There was considerable discussion in and outside the Commission as to the relative merits of two alternative approaches to recommended legislation dealing with the trust responsibility: 1) a detailed definition; 2) a general statement of policy.
>
> . . .
> The Commission has taken a middle ground between these alternatives and elected not to offer a detailed definition of trust responsibility because such a definition offered today could become obsolete and unmanageable as the nature and functions of tribal governments evolve, as the role which Indians play as United States citizens changes, and as the relationship between the Federal Government and tribal governments responds to new realities and demands.
>
> Likewise, we elected not to recommend a simple, broad reaffirmation by Congress that there is such a concept as a trust responsibility. Congress has recognized implicitly the special obligation of the United States to American Indians in many statutes. The Federal courts have recognized and given substance to the trust duty for more than 150 years. And various sectors of the executive branch do specifically recognize the trusteeship.
>
> Despite this recognition, the trust duty remains somewhat fuzzy, poorly administered, and a matter of some disappointment to Indians who read Federal court statements that the trust responsibility involves "moral obligations of the highest responsibility and trust" and is to be "judged by the most exacting fiduciary standards," then try to perceive those obligations being met. As a rule, Indians cannot see the performance of the promise.

Forty years ago, Felix Cohen, the preeminent legal scholar on Indian affairs described the development of federal Indian law as follows:

> To trace the origins of our Federal Indian law is a difficult task. The law of the United States with respect to Indian tribes is a curious historical patchwork in which may be found the product of many looms and many weavers. One may divide this strange patchwork into its component patches and find nearly four hundred federal treaties with Indian tribes, about four thousand federal statutes, and an even larger number of judicial and administrative decisions which, by and large, attempt to interpret and to apply these treaties and statutes.

Cohen's analogy is equally applicable to the trust responsibility doctrine. Many Indian tribes view the recent federal pronouncements about its trust duties not as efforts to weave another patch on the quilt, but as efforts to shred the fabric which binds federal Indian policies together. They anticipate that not only the edges of the federal government's trust responsibilities are starting to fray, but that the entire tapestry is being discarded under the guise of federal budget constraints.

Federal support for Indian education is as essential an element of the trust responsibility as is the protection of reservation lands and resources. Such assistance provides the tools by which Indian tribes can determine and manage their own lives, and education has always been a central service in federal efforts on behalf of Indian people. The federal government can, and often should, redirect the ways it supports Indian education. But in seeking to do so, the United States should not mask its actions by claiming that education services are not a trust responsibility. The nation's solemn commitments to Indian tribes demand a far higher standard of conduct from its representatives.

L. The States' Responsibilities for Public Education Do Not Relieve the United States of Its Trust Responsibility for Indian Education.

Since 1924, all Indians in the United States have been citizens of the United States. Because of this status, Indians in their relations with the federal government and the states are entitled to all the protection and benefits afforded by the Constitution. But conferring citizenship status on individual tribal members affected neither the relationship between Indians and their governments nor the relationships between tribal governments and the United States.

In general, the states have primary responsibility for providing free public educations. And once they have undertaken to so provide for some of their citizens, states are obigated to furnish the same level of services to all of them. As citizens, Indians are unquestionably entitled to participate fully in the public school systems of their states.

But just as unquestionably, as members of their tribes, Indians are also the beneficiaries of the unqiue political relationship between their tirbes and the federal government. In this government-to-government relationship, the United States has committed itself to safeguarding Indian lands and resources and to assuring that Indian tribes retain their ability to provide for their own well-being. This is the essence of the trust responsibility doctrine.

One of the primary ways the United States fulfills its solemn commitment to Indian Tribes is by guaranteeing that their tribal members are adequately prepard by edcuation and training opportunities to participate fully in the affairs of their tribes, their communities, their states, and their nation. But because of their unique legal status, Indian tribes cannot rely soley on either the legal responsibility or the good faith of the states to assure that such opportunities will be provided them. The history of tribal-state relations is such that, even under the best of circumstance, federal overisght and financial support is essential. Two examples will demonstrate the necessity for a continuing federal responsibility in Indian education.

First, how the states define an adequate education for Indians may well not be how the tribes themselves define it. But clearly, the states will apply thier definitions unless tribes have some legally-enforceable right to alter or shape it. The trust responsibility provides this right and the federal government must satisfy this obligation on behalf of Indian children and their tribes.

Second, Indian reservations are not subject to taxation by state or local governments, and these taxes constitute the primary foundation for the public school finance systems. Unless the federal government continues to require states to educate Indians and to support them in doing so, the states will devleop ways to avoid their responsibility. The very nature of the federal responsibility for Indian education is different from the state responsibility for public education. The states are responsible only for providing equal opportunity for all education services. But Indian education is not equal to that provided all other students because it is founded on the unique political relationship between tribes and the United States and it requires the highest degree of care in its provision.

If the federal government has decided that most Indian students will benefit more from public school educations than from other alternatives, the federal government must continue to support the public schools which educate Indian students. Without such involvement, Indian students simply will not receive the educations they deserve either as state citizens or as members of their tribes. Although the federal government can alter the techniques it uses to deliver education services, it cannot escape its overriding responsibility to assure their suitability for Indian students.

M. The Trust Responsibility Does Not Include All Federal Indian Education Services.

The previous sections of this report have focused on the federal government's trust responsibility, its history, nature, and significance. As previously explained, this doctrine is solidly based on the United States' involvement in Indian affairs and is essential to the continuing existence and well-being of Indian tribes and their members. But just as the trust responsibility rests on the government-to-government relationship which has evolved over the years, so do the federal government's services which carry out the trust. Because the trust responsibility is unique, its services are different from those which the federal government provides other citizens. And because Indians are citizens of their states and of the United States, they receive all the privileges and benefits of such status. As a consequence, not all government activities which serve Indian tribes or individuals are necessarily "trust responsibilities." The type of service and the purpose it serves must be carefully analyzed to identify those that are trust-related and those that are not.

The distinction which must be made to accurately classify trust responsibilities cannot be based on sweeping generalizations like "Education is not a federal trust responsibility." Despite the appeal of such a direct assertion, it grossly oversimplifies a complex matter. A more accurate, if no more enlightening, general statement should say: "Some Indian education is a federal trust responsibility, some is not, and some may or may not be." A direction to follow in applying this analysis to the present system of federal Indian education is set out in the succeeding paragraphs.

The federal government's support for Indian education in the 1980s has many components. The providers of such services include tribal governments, the federal government and its agencies, Indian communities, the state governments, local school districts, public and private colleges and universities, and other institutions. The types of services include early childhood education, elementary education, secondary education, postsecondary education, and adult education. School facilities range from one-room country schools to large urban ones, from boarding schools to day schools. Some education costs for Indian students are borne by tribal governments, some by state governments, and some by the federal government, but no complete analysis of the costs of educating Indian people has been, or could be, done because of the systems' complexities. How then can the education services that emanate from the trust responsibility be distinguished from the others? By examining the nature of the service and the education need it fulfills.

To qualify as a trust responsibility, an education service must satisfy the general criteria which have developed to describe all trust responsibilities. It must be based on the United States' treaty or other legal commitments to preserve and protect Indian tribes and their resources, and it must address the needs of Indian students as members of their tribal governments. By answering the following series of questions, it is possible to distinguish among the education services Indian students receive and to classify those that fulfill a trust responsibility which the United States has pledged itself to provide.

1. Is the education service necessary because of a federal treaty or statute?
2. Is the education service necessary because of the existence of an Indian reservation which is exempt from taxation?
3. Is the education service necessary to assure that tribal members have sufficient training and education to direct and manage their tribal affairs and resources?

If the answers to all these questions is "yes," the service is clearly a federal trust responsibility. Conversely, if the answer to all is "no," it is clearly outside. And if the answers are mixed, the service may or may not be a trust responsibility. Resolving this matter will depend on the degree to which the service satisfies the federal government's general trust responsibility and on whether the following questions can be answered in the affirmative:

4. Is the education service necessary because no other resource is available or sufficient to meet the needs of Indian students as members of their tribes?
5. Is the education service necessary because previous federal actions have created the need for it or have failed to remedy the problems which the service addresses?

CONCLUSIONS AND RECOMMENDATIONS

Based on our analysis of the development of the federal government's trust responsibility and its application to us, the Confederated Tribes of the Warm Springs Reservation of Oregon concludes and recommends:

A. Conclusions

1. The federal government has a continuing obligation, founded in our treaty and in numerous federal laws, to protect and strengthen our ability to remain as a sovereign tribal community. This trust responsibility extends from our Reservation and its natural resources to our tribal members, and it is fulfilled by the United States through its dealings with our established tribal government.
2. The federal government, in discharging its trust duties, is subject to the highest standards of care as a fiduciary for tribal interests.
3. The federal government's trust responsibility cuts across all federal agencies and includes the protection of our Tribes' physical resources--our land, water, timber, and minerals--as well as our Tribe's human resources--our members and their social and economic needs.

4. The federal government's trust responsibilities include the obligation to provide our Tribes with sufficient educational opportunities to assure our existence as a distinct and autonomous tribal community forever.

B. RECOMMENDATIONS

1. The United States, through the Congress, should make an unequivocal policy declaration that the United States will respect its continuing legal and moral obligation to safeguard and upgrade--through the provision of technical, financial, and legal assistance--the integrity of our Tribes and our Reservation and of other Indian tribes.
2. The declaration should recognize that the education needs of Indian tribes are not uniform, and it should incorporate sufficient flexibility to adapt education services to the needs of individual Indian tribal communities.
3. The declaration should address the fundamental responsibility of the United States to quarantee that tribal members receive education services that satisfy their personal goals and our tribal needs for a skilled and informed tribal citizenry.
4. The declaration should address the manner in which tribal consultation will be obtained in order to assure that our govern mental interests are protected in our relations with the United States and its agencies.

5. The delcaration should describe those education services the United States will furnish in furtherance of its trust responsibility. These services include, at a minimum:
    - 5.1 Financial support, such as provided by Impact Aid funds under Public Law 95-561, to compensate public school districts for revenues not available because of the tax-exempt status of our Reservation, and by Johnson-O'Malley funds to meet the unique educational needs of Indian students.
    - 5.2 Administrative support, such as provided through Element 10 allocation to supply technical assistance and to coordinate education services provided to tribal members.
    - 5.3 Direct services, such as available through Chemawa Indian School and other BIA off-reservation boarding schools which serve the special educational needs of Indian students.
    - 5.4 Postsecondary assistance, such as provided through BIA and and other federal higher education grant and scholarship programs.
    - 5.5 Supplementary services, such as provided under the Indian Education Act of 1972 for the academic and cultural education needs of Indian students.
6. The declaration should require that all federal education funds appropriated for Indians in fulfillment of the trust responsibility will be provided to tribal governments for distribution in accordance with tribal education plans and objectives.

POSITION STATEMENT

THE TITLE IV SMOKESCREEN:

MOVING INDIAN EDUCATION FROM EDUCATION TO INTERIOR

INTRODUCTION

The FY 1983 Reagan budget proposes that Indian Education services under the Department of Education be transferred to the Bureau of Indian Affairs. The transfer would include programs authorized under Title IV of the Indian Education Act of 1972 that serve Indian students in public schools and that provide special assistance to Indian post-secondary students and adults. To carry out the transfer, the budget proposes to earmark $51.1 million for the Bureau of Indian Affairs, a reduction of approximately one-third over the amount currently provided the Department of Education for the same services.

Although the budget provides little insight into the reason for the proposed transfer, it appears tied to the administration's efforts to dismantle the Department of Education and to create a new Foundation for Education Assistance. The Department's Office of Indian Education (OIE) is apparently considered one of the responsibilities that can be parceled out to another federal agency.

POSITION

The Confederated Tribes of the Warm Springs Reservation of Oregon opposes the transfer of the Department of Education to the Bureau of Indian Affairs at the prsent time for the reasons elaborated hereafter.

ANALYSIS

1. The rationale for the transfer is unclear. Little study has gone into the recommendation that Indian education programs under the Department of Education be transferred to the two agencies are different, and their Indian education services reflect these differences. Education Department programs focus on remedial or supplementary education services furnished by states through their public school systems. Bureau of Indian Affairs programs, in contract, fulfill the federal government's trust responsibility to Indian tribes and are provided on a government-to-government basis between the United States and tribal governments. The fact that both address the education needs of Indian students does not mean that their efforts duplicate each other or that their programs can necessarily be combined.

By and large, Title IV Indian education programs benefit Indian students in the public schools regardless of their tribal affiliation. Often, Indian students from a number of tribal backgrounds are served by one Title IV project, particularly in urban school districts. But because its education programs are premised on the special legal and political relationship the United States has with Indian tribes, BIA education programs serve Indian students because of their tribal affiliation. Typically, BIA serves Indian students who live on or near their reservations, whether they attend public, tribal, or federal schools. The Reagan administration offers no explanation to Indian tribes, Indian people, or to their schools why it believes these programs either should, or can, be consolidated into the Bureau of Indian Affairs. Without such an underlying rationale to support the change, it is impossible to provide meaningful support or opposition to the concept.

2. The effects of the transfer are unclear. Because the proposed transfer lacks any substantive rationale to support it, it si also impossible to predict what changes the transfer of Title IV to the Bureau of Indian Affairs would precipitate. Does the administration envision a major shift in the way BIA programs are provided to encompass Title IV as it operates currently? Or does it anticipate changes in Title IV operations under BIA administration? In either event, the effects of the proposed transfer would be far-reaching. And if neither is intended, how does the administration propose to provide the same level of services with one third fewer dollars?

None of these issues has been addressed yet.

RECOMMENDATIONS

1. The transfer of the Department of Education's Office of Indian Education to the Bureau of Indian Affairs should not take place as a budget-saving proposal for FY 1983.

2. Until such time as a comprehensive study and analysis of the proposal has occurred within the BIA and the Department of Education and with tribal and congressional consultation, the Office of Indian Education should remain in the Department of Education or any successor agency established by the Congress to oversee federal education programs.

3. If the transfer takes place notwithstanding the above recommendations, the Congress should appropriate the full funding authorized for Title IV to the Bureau of Indian Affairs to permit smooth transition and continuation of services for Indian students.

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